

SOURCE-BOOK
OF
ENGLISH HISTORY
LEADING DOCUMENTS

TOGETHER WITH
*ILLUSTRATIVE MATERIAL FROM CONTEMPORARY
WRITERS*

AND A
BIBLIOGRAPHY OF SOURCES

BY

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OF JOHNS HOPKINS UNIVERSITY.

SECOND EDITION, REVISED



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I dedicate this volume, by his kind permission, to

The Right Reverend William Stubbs

LORD BISHOP OF OXFORD

In appreciation of his contributions to
historical literature



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PREFACE TO THE SECOND EDITION

THE generous appreciation of my fellow-workers in the field of English History resulted in the exhaustion of the first edition of the *Source-Book*. The opportunity for a revision of the text thus came to me. I have gladly availed myself of it in order that the usefulness of the book might be increased.

This new edition, however, does not contain any radical changes. The plan of the book and the choice of selections are the same. The careful reader will, nevertheless, detect various alterations. These are, as a rule, typographical corrections discovered by a rigid triple comparison of each word of the text of the first edition with that of the source from which the excerpt was made.

The chapter devoted to "The Growth of Law" has presented many editorial difficulties, owing to the fact that no one text or translation of the early English statutes can be regarded as absolutely correct. I have in this work edited the early statutes after the following plan: I have selected those parts of the best readings which were closest to the meaning of the most highly approved MSS. texts. I have combined these excerpts into what I believe to be an accurate rendition of the statute. My version will in several particulars differ from *The Statutes of the Realm* and *The Statutes at Large*. The differences are rendered necessary by the variations and errors of these antiquated works.

▼

I have made no changes in the choice of illustrative material of the section illustrating the Nineteenth Century. An examination of the authorship of the selections will demonstrate their right to speak authoritatively of the events of which they treat.

I trust that this edition will aid to illustrate the history of England and that, despite its faults, it may prove a useful working tool.

GUY CARLETON LEE

JOHNS HOPKINS UNIVERSITY

October 15, 1901

PREFACE

IN editing this volume I have differed from the plan of selection adopted by Bishop Stubbs, in that I have included illustrative material not strictly documentary; and I have departed from the method of Professor Hart — from whom I have borrowed the name, source-book — in that I have included the great constitutional and legal documents which furnish the framework of the history of national development.

Though I have differed in details of editing from these learned scholars, to whom students and teachers of history are under great obligations, yet I have striven for the same result that they have so successfully attained, in that their works are not only useful tools for the classroom and authoritative reference works for the library but are interesting to the general reader.

The scope of this collection of sources is such as to make it available for use with any text-book upon English History. It extends from the first mention of Britain by ancient historians to the last great treaty with the Boers of South Africa. Thanks to the liberality of my publishers, who have regarded the work from the educational rather than the commercial point of view, I have been enabled to add to its usefulness by including much illustrative material hitherto inaccessible to most students.

The first part of the volume is devoted to a working bibliography of sources. An attempt has been made to cite nearly every important collection by title; and, where an omission has been found to be necessary, the student is furnished with such bibliographical informa-

tion as will enable him to find material for the epoch under consideration. I desire to express my obligations in this department to the erudite and invaluable works of Professor Charles Gross and of the late Sir Thomas Duffus Hardy; to them the student must always turn for bibliographical detail.

In editing this volume I have in most cases modernized the spelling, punctuation, and capitalization of the excerpts, believing that documents are most useful in their most readable form. I have, however, preserved the original style when necessary to bring out the full effect of the selections. In selecting matter from printed texts I have sought to excerpt from the most approved editions without reference to date of their publication. In choosing from reprints I have preferred the official editions. In deciding upon translations I have selected and edited those which in my opinion most faithfully present the meaning of the best manuscripts. The sentiments expressed in the selections are those of the respective authors; I am obliged to disclaim any responsibility for them.

I desire to express my gratitude to authors and publishers for the use of much valuable material. I have taken pains to acknowledge special obligations by indicating my sources at the close of each selection. I am especially grateful for the many privileges and kindnesses which I have received from Philip R. Uhler, Provost of the Peabody Library, and his assistants, all of whom have been untiring in their efforts to aid me in my work.

I shall be under obligations to my fellow-labourers in the field of history if they will advise me of any sins of omission or commission which they may note.

G. C. L.

HISTORICAL DEPARTMENT

JOHNS HOPKINS UNIVERSITY

May, 1900

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PART I

BIBLIOGRAPHY OF SOURCES

CHAPTER I

HISTORIANS, CATALOGUES, AND COLLECTIONS

SECTION 1.—THE HISTORIANS

The student of history should be able to recall without effort the names of the principal historians of his chosen field. With the names should be associated in his memory the important works of those historians, and of these works the scope and value should be known. As study becomes more intensive and the field of research narrower or more thoroughly explored, his bibliography of the subject should attain a comprehensiveness that includes all available material.

Bibliographies are too often mere collections of names, series of titles which form a catalogue whose value varies with the knowledge possessed as to each item. Such insufficiency of equipment more often results from lack of a true conception on the part of the student of his needs than from unwillingness to gain the requisite knowledge.

The most extended and minute knowledge of authors and their works is incomplete — is, we may say, of little worth — unless it includes a valuation of the items of evidence which bibliography furnishes. This appraisal must be the work of the student himself, and by his success must be measured his understanding of history. To acquire the power of correctly gauging the weight of this or that historian is by no means easy; but it is not impossible. The work of critics and essayists will give views worthy of most respectful consideration; but such work is too often special pleading, and in the last instance the student must, as did the critic, investigate for himself the personality, the environment, and the opportunities of the writer whose work is under examination. Until a knowledge of these is gained, even a study of original materials fails to reveal the meaning and purport of history.

I

BOSTON, JOHN (b. —; d. 1410): *Catalogus Scriptorum Ecclesiæ*.

Valuable for its account of the libraries of England in the fourteenth century. Of slight worth in accounts of individual authors. The *Catalogus* has been reprinted in part in No. VII. Boston is the first of the English Bibliographers.

II

LELAND, JOHN (b. 1506; d. 1552): *De Rebus Britannicis Collectanea*, ed. T. Hearne. Oxford, 1715. Reprinted London, 1770. — *Commentarii de Scriptoribus Britannicis*, ed. A. Hall. Oxford, 1709. — (A continuation of *De Rebus*, etc.)

Leland has been called "the Father of English Antiquaries." He was the librarian of Henry VIII., and as "King's antiquary" was commissioned to search for records and manuscripts in all cathedrals, colleges, abbeys and priors of England. He was successful in his search, and his works, of which the two principal ones are noted above, are of great value. Although Boston (No. I) antedates Leland, yet the latter's work was the first important English contribution to bibliographical knowledge and was the foundation for future publications of similar character.

III

BALE, JOHN (b. 1495; d. 1563): *Illustrium Majoris Britanniae Scriptorum, hoc est, Angliæ, Cambriæ ac Scotiæ, Summarium*. First published Ipswich, 1549. Then in several editions at London. Notably the first ed. 1559, under title *Illustrium Majoris Britanniae Scriptorum Catalogus, a Japheto sanctissimi Noah filio ad An. Dom. 1559*.

Bale was educated in the Catholic faith. He became a Protestant and a most zealous partisan. His life was a stormy one, and his writings reflect the bitterness engendered by the religious controversies in which he was actively engaged. Despite his bias and bitterness against all writers not of his faith, his work is yet of great value because of the minuteness with which it describes Protestant writers not elsewhere mentioned.

IV

PITS, JOHN (b. 1560; d. 1616): *Relationum Historicarum de Rebus Anglicis, Tomus primus*. Paris 1619. This work is also known as *De Illustribus Angliæ Scriptoribus*. This is the fourth volume of Pits' work. The first three volumes have never been published. The manuscript is at Verdun, in the library of the collegiate church.

Pits was a violent Catholic partisan. His work furnishes the antithesis to that of Bale (No. III.) It is marred by the same suppressions, exaggerations and misrepresentations in favour of the Catholics as occur in the work of Bale in behalf of the Protestants. But the book is of value for its careful and comprehensive accounts of Catholic writers and their works.

V

CAVE, WILLIAM (b. 1637; d. 1713): *Scriptorum Ecclesiasticorum Historia Litteraria a Christo nato usque ad Sæculum XIV.* First published 1688. The best edition is that of the Clarendon Press, 1740-1743. This contains many additions by Cave and a continuation by Wharton and Grey bringing the work down to 1517.

The work is in the main trustworthy. (See *contra*, Leclerc, in *Bibliothèque universelle*.) Cave was careful, accurate, and able to avail himself of existing sources. The volume is of especial value in its field of Church History.

VI

WARE, SIR JAMES (b. 1594; d. 1666): *De Scriptoribus Hiberniæ.* 1639.

The first of the great bibliographies of Irish History. It is fair, but limited in scope and lacking in detail. Superseded by No. VII.

VII

TANNER, THOMAS (b. 1674; d. 1735): *Bibliotheca Britannico-Hibernica.* London, 1748, ed. D. Wilkins.

"On all questions connected with the early literature of our nation, Tanner's *Bibliotheca*, notwithstanding its many omissions, defects and redundancies, is still the highest authority to which the inquirer can refer." See Hardy in No. VIII. The *Bibliotheca* is based on original research, and yet due regard was paid to the work of Leland, Bale and Pits.

For details regarding later historians consult Allibone, S. A., *Critical Dictionary of English Literature*, with supplement by J. F. Kirk; Lee's *Dictionary of National Biography*, and other cyclopædic works.

SECTION 2. — CATALOGUES OF SOURCES

Catalogues of Sources are indispensable to the student. Their uses are varied. The student who is acquainted with the name of an author or editor turns to the catalogues for

an enumeration of his works, their contents, and a synopsis of particulars regarding editions, times and places of publication, and reviews, comments, and criticisms; or the name of the work is taken as a basis of research and the same results are obtained. Again, the investigator may desire to obtain an estimate of the critical value of a work, in a condensed form and apart from the point of view of essays and reviews. Lastly, the student may desire to gain a knowledge of the literature upon a given subject, and this is to be found in the catalogues. I have below given references to the most useful works in this field; but the student should supplement these and keep abreast of current literature by reference to the *Annual Annotated Bibliography of English History*, edited by W. D. Johnston. This has been published in both card and pamphlet form by the American Library Association. It will henceforth be found in the Annual Report of the American Historical Association. Knowledge of the valuable contributions upon present historical questions may be obtained by reference to Poole and Fletcher's *Index to Periodical Literature*, and also to the *Cumulative Index*.

The student, however, must not rest content with these sources of information. They will serve for the preparation of the skeleton bibliography, the construction of which should always precede serious historical investigation; but this framework must be clothed from the references to be found in footnotes and bibliographical lists attached to works upon his chosen field. Information thus obtained is more directly referred to its proper place, and assigned its exact value and application, than is possible in any general catalogue.

VIII

HARDY, THOMAS DUFFUS: *A Descriptive Catalogue of Manuscripts relating to the History of Great Britain and Ireland*. Published 1862-1891 in the Rolls Series (No. XXXI) in 3 volumes. Vol. I (2 pts.), —1066; Vol. II, 1066-1200; Vol. III, 1200-1327. Vol. I, pt. 2, contains a catalogue of printed source material up to date of publication.

This catalogue is of the greatest value. It furnishes in concise form a mass of indispensable data. It is, and must for years remain, the basis of bibliographical study in early English history. A supplement to Vol. I, Part 2, is needed, but the student can without difficulty supply the break from 1862 to this present date.

IX

WATT'S BIBLIOTHECA BRITANNICA: *A General Index to British and Foreign Literature*, ed. R. Watt. Edinburgh, 1824.

This catalogue is a mine of information. It is indexed by authors and subjects.

X

LOWNDES, WILLIAM THOMAS (b. 1800; d. 1843): *The Bibliographer's Manual of English Literature*, ed. H. G. Bohn. London, 1864.

This series (11 vols. 12mo) is of great value. Its scope is indicated by the sub-title: "An Account of rare, curious, and useful books, published in or relating to Great Britain and Ireland, from the invention of printing; with biographical and critical notices, collations of the rarer articles and the prices at which they have been sold in the present century." The appendix volume is especially useful; it contains "An Account of books issued by literary and scientific societies and printing clubs; books printed at private presses; privately printed series; and the principal literary and scientific serials."

XI

THE ENGLISH CATALOGUE *of Books published from 1835 to January 1863. Comprising the Contents of the London and the British Catalogues, etc., etc.* London, 1864.

This series has been continued to date. Although it leaves much to be desired, it is invaluable. Its appendix continues the work of Lowndes (No. X) in cataloguing publications of learned societies. It thus bridges the gap between Lowndes and the *Official Year Book of the Scientific and Learned Societies*, which was begun in 1884. The scope of this series is shown by the sub-title of its continuations: "An Alphabetical List of Works published in the United Kingdom and of the Principal Works published in America. With dates of Publication, Indications of Size, Price, Editions and Publishers' names." For earlier record of printed books see the catalogues of Maunsell (1595) *A Catalogue of certaine books* (1631), London (1658), Clavell (1666-1695). Bent's *General Catalogue* (1786), *London Catalogue* (1811-1855) continued by No. XI. See also *The American Catalogue*.

XII

CROSS, CHARLES: *Bibliography of British Municipal History, including Gilds and Parliamentary Representation*. Published in Harvard Historical Studies, 1897.

Sources and Literature of English History from the Earliest Times to about 1485. New York, 1900.

The most modern, the most illuminating, and withal the most satisfactory works within their chosen fields.

In addition to the class of works included above, there are a number of most helpful volumes upon modern historians. These do not pretend to be as scientific in treatment or as inclusive in scope as those numbered from I to XII and yet should be within access of students. Among them I would enumerate:

XIII

ADAMS, C. K.: *Manual of Historical Literature.* New York, 1888.

This work comprises "brief descriptions of the most important histories." It is a helpful work, and from it may be obtained impartial and accurate estimates of historical values.

The *Manual* was first published in 1882. No thorough revision has been made. The revision of 1888 was not a complete one. A new edition of this valuable book is needed.

XIV

SONNENSCHN, W. S.: *Best Books. A Reader's Guide to the choice of the Best Available Books in every department of Science, Art, and Literature (about 50,000 titles) down to 1890, with prices and numerous notes.* London, 1889. Also, by same editor, *A Reader's Guide to Contemporary Literature being the first supplement to Best Books.* London, 1894.

These volumes are of the greatest value. They are not only useful for historical purposes, but furnish a wealth of bibliographical information upon the multitude of questions arising in the study of history. Such knowledge is indispensable to the thorough student. The student should know Brunet, J. C.: *Manuel du Libraire*, Paris; also Ebert, F. A.: *Allgemeines bibliographisches Lexikon*, Leipzig, 1821-30.

The student will find much biographical information in a book whose title would seem to limit it to a particular library, but whose application is not so confined. It is *Hand-list of Bibliographies, classified Catalogues and Indexes placed in the Reading Room of the British Museum for Reference.* See also Richard Sims' *Hand-Book to the library of the British Museum.*

SECTION 3.—GREAT COLLECTIONS OF MATERIALS

The manuscript sources of English history for the periods after the Norman Conquest are abundant and valuable. Through the labours of scores of scholars, working, not for gain, but for the advancement of historical science, the student has at his disposal critical editions of a large part of the most important sources. These texts have been prepared with an erudition and exhaustiveness that is unsurpassed, perhaps unequalled, in like critical work. The texts have in many cases been issued in collections and series, and it is my purpose in this section to give a general statement of the characters of the most important, and to indicate where detailed information concerning them can be found. The edited texts and single translations are enumerated in sections 4 to 10 inclusive. Certain students may shrink from an examination of untranslated sources; and I think it in place to encourage them by the statement that the most elementary knowledge of Latin can — because of the simplicity of style, the limitations of vocabulary, and the copious notes and special glossaries of the edited texts — easily master the materials which are not in English.

XV

ABBOTSFORD CLUB PUBLICATIONS.

This club was instituted at Edinburgh, 1835. Its purpose is the publication of miscellaneous works, illustrative of history, literature and antiquities. Its field of work is Scotland. For list of publications, see Nos. VIII and X and societies' catalogues. These latter should be consulted in looking up every reference herein given to publications of learned societies; also No. XI (appendix) and the Official Year Book for work of existing societies.

XVI

ACTA SANCTORUM: *quotquot toto orbe coluntur, vel a catholicis scriptoribus celebrantur, ex Latinis et Græcis; aliarumque gentium antiquis monumentis collecta, digesta, notisque illustrata ab J. Bollando et al.* Antwerp, 1643-1794.

This gigantic work is a mine of information upon the lives of the saints, but it is chiefly valuable to the secular historian for the light thrown upon the times of the characters described. For catalogue of British saints discussed in No. XVI, see No. VIII under title *Acta Sanctorum*.

XVII

ÆLFRIC SOCIETY PUBLICATIONS.

This society was instituted in London, 1843, for the purpose of publishing Anglo-Saxon and other literary monuments, both civil and ecclesiastical, tending to illustrate the early state of England. See Nos. VIII and X.

XVIII

ANGLIA SACRA: *sive collectio Historiarum, partim antiquitus, partim recenter scriptarum, de Archiepiscopis et Episcopis Angliæ, a prima Fidei Christianæ susceptione ad annum MDXL*, ed. H. Wharton. London, 1691.

For the contents of this set, whose scope is explained by its title, see No. VIII.

XIX

ARCHÆOLOGIA. Published by the Society of Antiquaries.

The society probably developed from a society which was founded in 1572. Its publications are valuable and chiefly relate to the early and middle period of English history. The catalogue of this series will be found in No. VIII. This series must not be confounded with the publications of the scores of Archæological Societies that exist in Great Britain. Many of these series are of great value. See No. X.

XX

BALUZE, S.: *Miscellanæa, novo ordine digesta et non paucis ineditis monumentis opportunisque animadversionibus aucta, opera ac studio Joannis Dominici Mansi, Lucensis*. Lucæ, 1761.

Contains various documents not elsewhere so readily accessible. Has been superseded by later works for which see No. VIII.

XXI

BANNATYNE CLUB PUBLICATIONS.

This club was organized at Edinburgh, 1823, with the object of printing rare works illustrative of Scottish history, topography, etc. Club was dissolved, 1861. Its publications are of value. For catalogue, see Nos. VIII and X.

XXII

BOUQUET: *Recueil des Historiens des Gaules et de la France*, ed. M. Bouquet. Paris, 1738-1855.

The record of early Gaul and France and England as traced by contemporary and early historians. Valuable for texts of chronicles and histories by English and Norman authors. For contents relating to England, see No. VIII. This series is sometimes cited as *Rerum Gallicarum et Francicarum Scriptores*.

XXIII

BRITISH RECORD SOCIETY PUBLICATIONS.

This society was founded, in 1898, for the purpose of furnishing such information as well as rendering the records more accessible. Publications of value. See note to No. XV.

XXIV

CALENDARS OF STATE PAPERS.

The State Papers spring from three great and original sources; namely, the offices of the Secretaries of State for the Foreign, the Colonial, and the Home Departments. In the State Paper office they are classified under their several denominations, those emanating from the Home Department being technically called the Domestic Papers. The multitude of State Papers presents a vast field of valuable material. The student, to whom the papers were accessible, would without a guide be lost in their mazes. Such a guide is to be found in the valuable Calendars of State Papers. These catalogue the documents and abstract their contents with a completeness that relieves the ordinary student from the task of examining the manuscripts themselves. The calendars commence with the reign of Henry VIII. They extend, though in broken sequence, to the close of the eighteenth century.

XXV

CAMDEN: *Anglica, Hibernica, Normannica, Cambrica, a veteribus scripta*, etc. etc., ed. W. Camden. 1602.

This set, as also No. XVIII, has been in part superseded by No. XXXI; but it is still of great value to those to whom No. XXXI is not accessible. For contents of No. XIX, see No. VIII.

XXVI

CAMDEN SOCIETY PUBLICATIONS.

This society was instituted in London, 1838, for the purpose of perpetuating and rendering accessible "whatever is valuable, but at present little known, amongst the materials for the civil, ecclesiastical or literary history of the United Kingdom." The work of this society is of great value. Its scope has, since the projection of the Rolls Series (No.

XXXI), been devoted to the materials of the 16th, 17th and 18th centuries. Its publications contain a mass of information not elsewhere accessible. See lists of the society's publications and Descriptive Catalogue of the First series (1838 to 1870) ed. J. G. Nichols, Nos. VIII and X. Do not catalogue the series beyond 1862-64. See XIV, Supplement, and Official Year Book. Also No. XI.

XXVII

CANISIUS: *Thesaurus Monumentorum Ecclesiasticorum et Historicorum, sive Henrici Canisii Lectiones Antiquæ, ad Sæculorum Ordinem digestæ, variisque opusculis auctæ, quibus Præfationes Historicas, Animadversiones criticas, et Notas in singulos auctores, adjecit Jacobus Basnage; cum Indicibus locupletissimis. Antuerpiæ, apud Rudolphum et Gerhardum Wetstenios. 1725.*

This work in the above, or in the Ingoldstat edition of 1601-1604, is of value where more modern texts are inaccessible; it has, however, been superseded by them. For contents, see No. VIII.

XXVIII

CAXTON SOCIETY PUBLICATIONS.

This society was instituted in London, 1845, for the purpose of publishing the chronicles and literature of the Middle Ages. Its publications have not equaled those of No. XXIII in critical value, but they are useful and in the main accurate. For contents, see No. VIII and note to No. XV.

XXIX

CHETHAM SOCIETY PUBLICATIONS

This society was instituted at Manchester, 1843, for the purpose of publishing the historical and literary remains connected with the Palatine Counties of Lancaster and Chester. In its chosen field the publications of the society possess unique value. For contents, see No. VIII and note to No. XV.

XXX

COBBETT, WILLIAM: *The Parliamentary History of England from the earliest period to the year 1803.*

This work supersedes (a) *Parliamentary or Constitutional History... by several hands.* London, 1751-61, as well as all previous collections dealing with proceedings on Parliament. Yet where Cobbett's work is inaccessible the early collections are of great importance. Of these the student should in any case be familiar with (b) *D'Ewes' Journals*

of the Parliaments of Queen Elizabeth. (c) Chandler and Timberland's *Debates*. (d) Grey's *Debates of the House of Commons from 1667 to 1694*. (e) Almon's *Debates*. (f) Debrett's *Debates*. (f) Parry's *The Parliaments and Councils of England*. See for other early debates No. X.

The work of Cobbett is continued by No. XLII.

XXXI

CHRONICLES AND MEMORIALS: *Chronicles and Memorials of Great Britain and Ireland during the Middle Ages*.

This collection is usually cited as the ROLLS SERIES. It is of the highest value. Its contents — see VIII and Lists of series — are of such scholarly rank as to possess the highest authority, and the texts therein contained supersede all previous editions. The scope of the series extends from the invasion of the Romans to the end of the reign of Henry VII. The texts have been edited after the following plan: Texts not to be mutilated or abridged, accepted text to be formed from collation of most authentic manuscripts. Accompanying the texts are valuable introductions, in which may be found an account of the manuscripts, their peculiarities, account of the life and times of the author, as well as remarks explaining the chronology.

XXXII

COLGANUS, J.: *Acta Sanctorum Hiberniæ, per Joannem Colganum edita*. Lovaniæ, 1645-47.

Of considerable interest in its field. For contents, see No. VIII.

XXXIII

COLLECTANÆ ADAMANTÆA

This small series, begun by E. Goldsmith, Edinburgh, in 1884, reproduces a number of rare texts; they are in most cases translated as well as edited.

XXXIV

COUNCILS AND ECCLESIASTICAL DOCUMENTS

Under this head seven series are included because of their especial importance.

(A) CARDWELL, E.: *Documentary Annals of the Reformed Church of England, being a Collection of Injunctions, Declarations, Orders, Articles of Inquiry, etc. etc., from 1546 to 1716*. Oxford, 1839.

See also Sparrow's Collection. London, 1661, and later editions.

(B) CARDWELL, E.: *Synodalia, a Collection of Articles of Religion, Canons and Proceedings of Convocations in the Province of Canterbury from 1547 to 1717, with notes historical and explanatory.* Oxford, 1842.

Invaluable for history of convocations.

(BB) GIBSON'S CODEX: *Codex Juris Ecclesiastici Anglicani, or the Statutes, Constitutions, Canons, Rubrics and Articles of the Church of England, etc., etc., etc.* Ed. E. Gibson. London, 1703.

A valuable work.

(C) HADDAN, A. W., AND STUBBS, W.: *Councils and Ecclesiastical Documents relating to Great Britain and Ireland.* Oxford, 1869 *et seq.*

This series is most valuable within its scope, which ends 870, for the British Church. With 1295 for the Welsh and 1072 for the Cornish.

(D) JOHNSON, J.: *A Collection of the Laws and Canons of the Church of England from its first Foundation to 1519. Translated into English with explanatory notes.* London, 1720. Oxford, 1850.

Though not entirely satisfactory, this series bridges the gap between XXXIV (C) and XXXIV (A) and (B). Contains Lynwood's notes.

(E) LYNWOOD, W.: *Provinciale seu Constitutiones Angliæ, continens Constitutiones Provinciales XIV archiepiscoporum Cantuariensium, viz. a Stephano Langtono ad Henricum Chicheleum.* Oxford, 1470-80. Best edition, *cui adiicuntur constitutiones Legatine Dom. Othonis et Othotonis* [John of Actona's Gloss]. Oxford, 1679.

Only complete view of Ecclesiastical Jurisprudence before the Reformation in England.

(F) SPELMAN, H.: *Concilia, Decreta, Leges, Constitutiones, in re Ecclesiarum Orbis Britannici ab initio Christianæ ibidem Religionis ad nostram usque ætatam.* Ist vol. London, 1669. IId vol. ed. C. Spelman, London, 1664.

The scope of this work extends to 1530.—It is not only valuable in itself, but should be used in conjunction with the translated documents in XXXIV A, B, D.

(G) WILKINS, D.: *Concilia magnæ Britanniae et Hiberniae. Accedunt constitutiones et alia.* London, 1737.

Still valuable.

(H) JAFFÉ, P.: *Regesta Pontificum Romanorum.* Leipzig, 1885.

Papal Letters from 64-1198.

(I) POTTHAST, A.: *Regesta Pontificum Romanorum.* Berlin, 1873-75.

Papal Letters from 1198-1304.

XXXV

D'ARCHERY, D. L.: *Spicilegium sive Collectio veterum aliquot Scriptorum qui in Gallia Bibliothecis delituerant, etc., etc.* Paris, 1723.

Of interest because of the rare letters it contains. For contents, see No. VIII. This manuscript is supplemented by *Vetera Analecta*; see No. VIII for title and contents.

XXXVI

DUGDALES MONASTICON: *Monasticon Anglicanum*, William Dugdale, ed. Caley, Bandinel and Ellis. London, 1817-1830.

This work is indispensable to a study of the ecclesiastical history of England and Wales. It covers the period from the institution to the dissolution of the monasteries. See note to No. XV.

XXXVII

EARLY ENGLISH TEXT SOCIETY PUBLICATIONS.

This society was founded, in 1864, for the purpose of editing and reprinting the texts of early English writers. The publications of the society are useful. See note to No. XV.

XXXVIII

ENGLISH HISTORICAL SOCIETY PUBLICATIONS.

This society was instituted in 1837 for the purpose of publishing the results of bibliographical and chronological investigations. — Before its dissolution the society issued several texts, which are valuable when other editions are unprocurable. For contents, see No. X and note to No. XV.

XXXIX

EXCERPTA HISTORICA; or *Illustrations of English History*, ed. S. Bentley. London, 1831.

Contains a variety of interesting documents which, though of secondary importance, are of value as illustrating phases of history. For contents, see No. VIII.

XL

FASTI ECCLESIAE ANGLICANÆ; or, *a Calendar of the Principal Dignitaries in England and Wales, and of the chief Officers in the University of Oxford and Cambridge from the earliest times to the year 1715*, ed. John Le Neve. Ed. and cont. by T. D. Hardy. Oxford, 1854.

An indispensable work of reference in its field. See also *Fasti Ecclesiæ Hiberniæ*, ed. Cotton. London, 1858.

XLI

HAKLUYT SOCIETY PUBLICATIONS.

This society was organized in London, 1846, for the purpose of publishing rare and valuable voyages, travels and geographical records. Its purpose has been well carried out. Its publications are of the highest value and should be known to every student. See Nos. VIII, X and note to No. XV.

XLII

HANSARD, T. C.: *Parliamentary Debates, from the year 1803 to the present time: forming a continuation of the work entitled "The Parliamentary history of England from the earliest period to the year 1803"* [No. XXX]. London, 1812-20. New Series, London, 1820-30. Third Series, London, 1831-91. Fourth Series, London, 1892-96. Fifth Series, now in course of publication.

This series, and that numbered XXX, are invaluable. Parliamentary history can best be followed in their volumes. See also No. XLVII.

XLIII

HARLEIAN MISCELLANY: *a collection of scarce, curious and entertaining tracts*, ed. Oldys and Park. London, 1808.

These volumes contain a mass of material of varying value yet of uniform interest. The student will find much that will be helpful. These volumes should not be confounded with those issued by the Harleian Society, which was instituted for the publication of inedited manuscripts relating to genealogy, family history and heraldry.

XLIV

HENRY BRADSHAW SOCIETY PUBLICATIONS.

This society was founded, in 1890, for the purpose of printing and editing rare liturgical texts. Its work is important. See note to No. XV.

XLV

IMPERIAL INSTITUTE OF THE UNITED KINGDOM,
THE COLONIES AND INDIA PUBLICATIONS.

This society was founded, in 1887, for the purpose of collecting and publishing, both by lectures and books, information regarding the Empire. The work of the society is valuable for contemporaneous record and future possibilities. See note to No. XV.

XLVI

IRISH HISTORICAL SOCIETIES.

The work of the numerous societies is of value, and the student should consult No. X for the publications of the Ibero-Celtic Society (bibliographical), the Irish Archæological, and the Irish Archæological and Celtic Societies, both devoted to the publication of materials for the study of Irish History. See also No. LVI and note to No. XV.

XLVII

JOURNALS: (a) House of Commons; (b) House of Lords.

(a) *Journals of the House of Commons.* London.

(b) *Journals of the House of Lords.* London.

These extremely valuable series extend from 1547 to date. They are indexed and in some instances calendared; for details, see No. IX. They should be consulted in connection with Nos. XXX and XLII.

XLVIII

LAWS AND STATUTES.

(A) Anglo-Saxon Period. See No. XCI.

(B) Norman Period. In addition to volumes numbered CIV, CV, and CVI, see *The Sources of the Law of England*, by H. Brunner, trans. W. Hastie. Edinburgh, 1888.

(C) From 1215.

(a) *Statutes of the Realm*, ed. A. Luders, T. E. Tomlins and others. London, 1810-22.

Statutes from 1215 to 1713. — Preceded by several earlier charters. Contains valuable introduction on legal bibliography.

(b) *Statutes at Large from Magna Charta*, ed. O. Ruffhead and others. London, 1763-1800.

From 1215 to 1800.

(c) *Statutes at Large of the United Kingdom of Great Britain and Ireland*, ed. T. E. Tomlins and others. London, 1804-69.

From 1801-1869.

(d) *Public General Statutes*.

From 1830-1887.

(e) *Public General Acts. Published by Authority*.
1888 and following.

From these editions may be studied the sequence of legislation and the detail of acts from the earliest records to the present annual publications. In addition to the series mentioned there are series of Revised Statutes published by authority. These are not as valuable for historical research, as they do not contain obsolete statutes. Abridgments and other private editions of the laws are of even less value from the historical standpoint.—The series named are well indexed and see for this Gross, *Bibliography of Municipal History*, No. IX as well as works therein mentioned on page 13 et seq.

The student should make himself familiar with the principal series of reports and also with accounts of trials in the various courts.

XLIX

LETTERS.

Various important collections of letters have been made. See the titles in chapter II, also No. VIII.

L

MABILLON: *Acta Sanctorum Ordinis Sancti Benedicti in Sæculorum Classes distributa* . . . Paris, 1688-1701. Venice (reprint), 1733.

This work is of value. VIII does not give full list of the lives of the British saints in L, but the exclusion is judicious, as all lives not based upon manuscript sources are excluded.

LI

MAITLAND CLUB PUBLICATIONS.

This club was instituted at Glasgow in 1828 for the purpose of printing works illustrative of the antiquities, literature and history of Scotland. See Nos. VIII, X and societies catalogues. See also Wodrow Society Publications catalogue in No. X and No. VIII.

LII

MANX SOCIETY PUBLICATIONS.

This society was instituted at Douglas, Isle of Man, in 1858, for the purpose of publishing materials for the history of Soder and Man. The publications afford valuable light in an obscure field.

LIII

MESSINGHAM, THOMAS: *Florilegium Insulæ Sanctorum seu Vitæ et Acta Sanctorum Hiberniæ*.

For contents, see VIII. For additional lives of the saints — and from such writings much of the detail of early history may be obtained — see Capgrave's *Nova Legenda Angliæ* (see No. VIII, p. 736 and note). See Pinkerton's *Vitæ Antiquæ Sanctorum Scotiæ* (contents stated in No. VIII).

LIV

MIGNE, L'ABBÉ: *Patriologiæ Cursus Completus*. Paris, 1844-1855. Part of this set exists in a French translation.

This monumental series contains well edited texts of the works of the early English writers, and also valuable correspondence. See No. VIII for contents.

LV

MONUMENTA HISTORICA BRITANNICA, or *Materials for the History of Britain*, ed. H. Petrie and J. Sharpe. London, 1848.

A valuable work. Of particular interest because of the material bearing upon earliest British history.

LVI

OSSIANIC SOCIETY PUBLICATIONS.

This society was instituted at Dublin, 1853, for the purpose of preserving and of publishing manuscripts in the Irish language illustrative of the Fenian period of Irish history... with literal translations and notes. The publications are of great interest. See No. X. See also No. XLVI and note to No. XV.

LVII

PARKER SOCIETY PUBLICATIONS.

This society was instituted at Cambridge, 1840, for the purpose of reprinting without abridgment, alteration, and omission, of the best works of the Fathers and early writers of the Reformed English Church, published in the period between the accession of King Edward VI. and the death of Queen Elizabeth. See Nos. VIII, X, and note to No. XV.

LVIII

PARLIAMENTARY WRITS *and writs of military summons . . . relating to the suit and service due and performed to the King's high court of Parliament and the councils of the realm, or affording evidence of attendance given at Parliaments and councils*, ed. F. Palgrave. No. XXXI. London, 1827-1834.

Of this work Professor Gross well says: "The most elaborate source for the study of parliamentary history in the reigns of Edward I. and Edward II." See also W. Prynne's *A brief register, kalender, and survey of the several kinds [and] forms of all parliamentary writs*. London, 1659-64. Examples extend to 1483. In connection with Parliamentary Writs, see Parliamentary Papers, 1878, vol. lxii, parts i-iii. London, 1878, for a Return of the name of every member of the lower house of the Parliaments of England, Scotland, and Ireland, with name of constituency represented, and date of return, from 1213 to 1874. Also Parliamentary Papers, 1890-91, vol. lxii, London, 1891, which contains the foregoing to 1885. See also the critical examination of above compilations by W. W. Bean in the *Parliamentary Returns* . . . London, 1883.

LIX

PIPE ROLL SOCIETY PUBLICATIONS.

This society was instituted in London, in 1883, for the purpose of publishing the Great Rolls of the Exchequer, commonly called the Pipe Rolls, and other documents prior to the year A.D. 1200. The rolls begin in 2 Hen. II., and extend with but two breaks (1 Hen. III. and 7 Hen. IV. — this break is filled by other records —) to 1833. The Rolls are of great value. One not in sequence, that of 31 Hen. I., is the oldest national document, except Domesday book, now in existence. The student should make himself familiar with the Charter, Close, Hundred, Patent, Plea, and other Rolls. See Nos. VIII and X (p. 22 et seq.), and note to No. XV.

LX

RECORD COMMISSION PUBLICATIONS.

Under the term "Records" Messrs. Gardiner and Mullinger, in their exceedingly valuable little text-book *English History for Students*, include "(1) Inrolments which are intended to be official and authentic records of lawful acts made by the proper officer of any court upon rolls, or, in some case, in official entry-books of the same court; (2) Memorandum of acts or instruments brought into the proper office of any court by parties interested therein (or by their agents) either in the form of rolls or otherwise, and pre-

served in bundles or on files; (3) Books of entries, containing memorandum of acts, etc., entered by officers of the court; (4) State papers, which form a distinct branch of the records."

The publications of the Commission include *The Correspondence of Henry VIII.* (abstracted in No. XXII), *The Statutes of the Realm* (No. XLVIII, C, a), *The Doomsday Book* (No. XCI, D), *Ancient Laws and Institutes* (No. XCI, A), and various other important publications, notably indexes, catalogues, and transcripts. See *Record Commission Catalogue* (Macmillan & Co. will send on request). See *Handbook to the Public Records*, ed. F. S. Thomas, Lond. 1853, and *Guide to Principal Classes of Documents preserved in Public Record office*, ed. R. S. Bird.

(ROLLS SERIES. See No. XXX.)

LXI

ROYAL HISTORICAL SOCIETY PUBLICATIONS.

This society was founded in London, in 1868. Its publications are varied in subject and of unequal value. They furnish, however, much information of importance that is not elsewhere obtainable. Consult the publications of the Royal Society (not to be confounded with No. LXI) for history of the progress of science. See note to No. XV.

LXII

SCOTTISH HISTORY SOCIETY PUBLICATIONS.

This society was instituted, in 1886, at Edinburgh for the purpose of discovering and printing, under selected editorship, unpublished documents illustrative of the civil, religious, and social history of Scotland. Its publications are valuable. See note to No. XV.

LXIII

SCRIPTORES

The items under this head are numerous. In the various series may be found, with scant exceptions, all the texts of the writers of the pre-printing epoch in English history. The student should be informed as to the contents of the various series and their critical value. See No. VIII. The names of the principal sets are here given.

(a) *Scriptores post Bedam*, ed. Savile. London, 1596. Frankfort, 1601.

(b) *Scriptores Decem, Historia Anglicana*, ed. Twysden. London, 1652.

(c) *Scriptores Rerum Anglicarum*, ed. Fulman. Oxford, 1684.

(d) *Scriptores XV, Historiæ Britannicæ, Saxonicæ, Anglo-Danicæ*, ed. Gale. Oxford, 1691.

(e) *Scriptures Varii, Historiæ Anglicanæ*, ed. Sparkes. London, 1723.

(f) *Scriptores Vetustiores, Rerum Britannicarum, id est Angliæ, Scotiæ, vicinarumque insularum ac regionum*, ed. Commelin. Heidelberg, 1587.

(g) *Scriptores Normanniæ*, ed. Duchesne. Paris, 1619.

(h) *Scriptores Veteres rerum Hibernicarum*, ed. O'Connor. Buckingham, 1804-1806.

(i) *Scriptores Rerum Danicarum Medii Ævi*, ed. Langebek. Hafniæ, 1772.

LXIV

SELDEN SOCIETY PUBLICATIONS.

This society was founded, in 1887, for the purpose of encouraging the study and advancing the knowledge of the history of English Law. Its objects in detail are "the printing of manuscript and of new editions and translations of books having an important bearing on English legal history; the collection of materials for dictionaries of Anglo-French and of law terms; the collection of materials for a history of English law," etc. etc. The works of the society are of the highest importance. See note to No. XV.

LXV

SPALDING CLUB PUBLICATIONS.

This Club was instituted at Aberdeen, 1839, for the purpose of printing the historical, ecclesiastical, genealogical, topographical, and literary remains of the North-Eastern counties of Scotland. See Nos. VIII, X, and the society catalogues. In connection with Scottish history, see the Scottish Burgh Record Society (note to No. XV).

LXVI

SURTEES SOCIETY PUBLICATIONS.

This society was instituted at Durham, 1834, for the purpose of publishing inedited manuscripts illustrative of the intellectual, the moral, the religious, and the social condition of those parts of England and Scotland included on the East between the Humber and the Firth of Forth, and on the West between the Mersey and the Clyde—the ancient kingdom of Northumbria. The publications of this society are interesting and of peculiar value within its chosen field. See Soc. Catgs., also Nos. VIII and X, and note to No. XV.

LXVII

THESAURUS NOVUS ANECDOTORUM: *Complectens Regum ac Principum, aliorumque Virorum illustrium Epistolas et Diplomata bene multa. Prodiit nunc primum studio et opera Domni Edmundi Martene et Domni Ursini Durand ...* 1717.

Contains much interesting material. For catalogue, see No. VIII, also No. LXIX.

LXVIII

TREATIES AND CONVENTIONS

(A) RYMER'S FÆDERA: *Fædera, Conventiones, literæ, et cujuscumque generis Acta Publica, inter Reges Angliæ et alios quosvis Imperatores, Reges, Pontifices, Principes, vel communitates . . .*, ed. T. Rymer (14 vols.). R. Sanderson (last 6 vols.). London, 1704-35. Several other editions. The best is that edited by A. Clarke and others for Record Commission. The Series is indexed and commented upon in *Syllabus of Documents in Rymer's Fædera*, ed. T. D. Hardy. No. XXXI. 1869-85.

Rymer's Fædera commences with 1101 and concludes with 1654. It is invaluable in its chosen field, which, as stated in the instructions to Thomas Rymer, the historiographer royal, was: the transcription and publication of all leagues, treaties, alliances, capitulations, and confederacies which had at any time been made between the crown of England and other kingdoms. The last volume of Fædera is not full, and the work must be supplemented by No. LXVIII, B.

(B) DUMONT'S: *Corps Universel Diplomatique du Droit des Gens: Contenant un Recueil des Traitez d'Alliance, de Paix, de Trêve, de Neutralité, de Commerce, d'Echange, etc., etc., depuis le Règne de l'Empereur Charlemagne jusques à présent, par J. Dumont.* Continued by Barbeyrac and Rousset. Amsterdam, 1739.

This work continues the record of treaties from 315 to 1730. Then consult No. LXVIII, C. See also *Histoire des Traités de Paix et autres négociations du dix-septième siècle, depuis la paix de l'cruins jusqu'à la paix de Nimigue*, Amsterdam, 1725. Also *Négotiations Secrètes*, The Hague, 1725-1726.

(C) WENCK'S: *Corpus Juris Gentium Recentissimi e tabulariorum exemplorumque fide dignorum monumentis*

compositus... Fred. Aug. Gid. Wenkii... Tomus Primus continens diplomata inde ab anno MDCCXXXV usque ad annum MDCCXLII. Lipsæ, MDCCCLXXXI. [II, 1743 to 1753. III, 1753 to 1772.]

The student will next consult No. LXVIII, D.

(D) MARTEN'S RECUEIL and continuations: *Recueil de Traités d'Alliance, de Paix, de Trêve, de Neutralité, de Commerce, de Limites, d'Echange, etc., et plusieurs autres actes servant à la connaissance des relations étrangères des Puissances et états de l'Europe tant dans leur rapport mutuel que dans celui envers les Puissances et états dans d'autres parties du Globe depuis 1761 jusqu'à présent [1708], par Geo. Fréd. de Martens. Seconde édition, revue et augmentée. Göttingen, 1817.*

(E) *Nouveau Recueil... depuis 1808 jusqu'à présent [1874]... Martens [to 1817 continuations by Murhard, Samwer and Hopfe.*

(F) *Nouveau Suppléments au Recueil de Traités*, by Murhard [covers 1761-1839].

(G) *Nouveau Recueil Général... Continuation du Grand Recueil [that of Martens et al.]... Deuxième Série [by Samwer, Hopfe and Stoerk]. Göttingen and Leipzig, 1876 et seq. Covers period from 1853 to date and still in progress.*

Full indexes and extensive supplements accompany these volumes (D) to (G) inclusive.

(H) HERTSLET'S COMMERCIAL TREATIES: *A Complete Collection of the Treaties and Conventions and Reciprocal Regulations at present subsisting between Great Britain and Foreign Powers and of the Laws, Decrees and Orders in Council concerning the same; as far as they relate to Commerce and Navigation, to the Repression and Abolition of the Slave Trade and to the Privileges and Interests of the subjects, of the high contracting parties. Compiled from authentic documents by Lewis Hertslet, Librarian and Keeper of the Papers, foreign office. London, 1840-1885.*

This important series has a full double index, arranged by subjects and by dates. Various other series of treaties have been published; see note in *Encyclopedia Britannica*, 9th edition. — At present, all treaties, not secret, are published in the *London Gazette* and in Parliamentary reports.

LXIX

VETERUM SCRIPTORUM *et Monumentorum, Historicorum, Dogmaticorum, Moraliū, Amplissima Collectio. Complectens Regum et Principum aliorumque virorum illustrium Epistolas et Diplomata bene multa. Prodiit nunc primum studeo et opera Domni Edmundi Martene, et Domni Ursini Durand, presbyterorum et monachorum Benedictinorum e Congregatione S. Mauri.* Paris, 1724.

Contains a mass of material. See No. LXVII. For contents, see No. VIII.

LXX

WELSH MANUSCRIPTS.

The four principal societies for the publication of Welsh manuscripts are:

- (a) Cambrian Archæological Association, inst. 1846.
- (b) Cambrian Institute, inst. 1853.
- (c) Cymmrodorion or Metropolitan Cambrian Institute, 1751, revived 1820.
- (d) Welsh Manuscripts' Society, inst. 1837.

During the activity of these societies they published many valuable works. See No. VIII and No. X. For publications, see note to No. XV.

LXXI

Year Books: *Les reports des cases argué et adjudgé...* London, 1678-80.

The scope of this series extends from Edw. II. to Hen. VIII. For year books antedating Edw. II., see No. XXXI. In this series also appear various Year Books of Edw. III.

In addition to the series and collections given, the student is referred to the additional series and to the publications of private presses, catalogued in Lowndes' *Bibliographer's Manual* (No. X), Hardy's *Descriptive Catalogue* (No. VIII), Watt's *Bibliotheca Britannica* (No. IX), The *English Catalogue* (No. XI), and the *Official Year Book of the Scientific and Learned Societies of Great Britain and Ireland*. London, ann. since 1884.

CHAPTER II

SOURCES ARRANGED BY EPOCHS

In the sections which follow an attempt has been made to group the most important and most accessible sources by epochs. The great collections given in section 2 and 3 are, with few exceptions, to be found at the university centres of the United States. The sources under sections 4 to 9 inclusive are, in most cases, even more readily available. While no attempt has been, or could have been, made to render source material complete for any epoch, yet the student will find ample working bibliographies, and by consulting the volumes mentioned in sections 1 and 2, the lists given can be made exhaustive.

SECTION 4. — THE PRE-NORMAN PERIOD

LXXII

MATERIALS FOR THE HISTORY OF BRITAIN:

Monumenta Historica Britannica, ed. H. Petrie and J. Sharpe. London, 1848. Only one volume published.

Indispensable for reprints of references to Britain in early Greek and Latin writers. Greek excerpts are translated. Contains copies of ancient inscriptions referring to Britain. Also ancient British and Roman coins, facsimiles of MSS, maps. Also texts of Gildas, Nennius, Bede, Short Chronicle of Northumberland, Anglo-Saxon Chronicle, Asser, Chronicle of Eathelward, Florence of Worcester, Simeon of Durham, Ecclesiastical Register, Henry of Huntingdon, Cambrian Annals, Geoffrey Gaimar, Chronicle of the Prince of Wales, Song of the Battle of Hastings. Full indices.

LXXIII

CÆSAR, Commentaries on the Gallic War: *Commentarii de bello Gallico*. Many editions of both original text and its translation.

Cæsar's invasions of Britain, description of island and its inhabitants, accounts of the early Germans. For the latter subject, see also Tacitus, *Germania*.

LXXIV

TACITUS, Life of Agricola: *Agricolæ vita*. As of Cæsar, many editions of this work and its translation are accessible.

Activities of Agricola, Roman occupation of Britain, descriptions of island and its inhabitants, supplements Cæsar.

LXXV

GILDAS: *De Excidio Britannicæ*. Text in Nos. LXXII, LIV, LXIX, XXXVIII, 1838, etc. Translations. Most accessible in *Six Old English Chronicles*. Bohn Library.

Two parts: 1st 55 B.C. to circa 383; 2nd to middle of sixth century. The work of Gildas forms "*the basis of early English History*."

LXXVI

BEDE, Ecclesiastical History of the English People: *Historica Ecclesiastica Gentis Anglorum*. Of the texts, a number of editions are accessible; I prefer edition in No. LXXII and in No. XXXVII. Of the several translations that by T. Miller in No. XXXVII is useful.

Covers period from 55 B.C. to middle of eighth century.
For this period the book is indispensable.

LXXVII

THE ITINERARY OF ANTONIUS: *Itinerarium Antonini Augusti et Hierosolymitanum*, ed. G. Parthey and M. Pinder. Berlin, 1848.

Enumerates the towns and stations of Roman Britain with intervening distances.

LXXVIII

THE OFFICIAL LIST OF THE EMPIRE: *Notitia Dignitatum et Administrationum omnium tam Civilium quam Militarium in Partibus Orientis et Occidentis*. Several edit. of texts; see that of O. Seeck. Berlin, 1876.

Organization of Britain under Roman government.

LXXIX

NENNIUS' HISTORY OF BRITAIN: *Eulogium Britanniae sive Historia Britonum, auctore Nennio*. Texts in Nos. LXIII; LXXII; XXXVIII. Also in several other edits. Trans. J. A. Giles. *Six Old English Chronicles*. London, 1848.

Valuable for Welsh history. Ends 688. For a discussion as to value of this work, see *Nennius Vindicatus*, H. Zimmer, Berlin, 1893.

LXXX

ICELANDIC SAGAS, and other Historical Documents relating to the Settlements and Descents of the Northmen in the British Isles. Vols. iii-iv, G. W. Dasent, in No. XXXI.

A collection of historical documents referring to descents and settlements of Northmen in Britain. See XIV First Supplement.

LXXXI

ANGLO-SAXON CHRONICLE: Various valuable editions of text, notably those of Petrie in No. LXXII; Thorpe in No. XXXI; J. Earle, Oxford, 1865. Tr., Gurney, Norwich, 1819; Ingram, London, 1823; also Thorpe, *supra*.

This most valuable of national records extends from 1 A.D. to 1154. Especially valuable from sixth century to close of Norman Conquest.

LXXXII

ASSER'S LIFE OF ALFRED: *Annales Rerum Gestarum Alfredi Magni, Auctore Asserio Mcnevensi*. Text, ed. Wise. Oxford, 1722. Also in Nos. LXXXII; LXII D, etc. Tr. *Six Old English Chronicles*. London, 1848.

Chronicle from 851-887. Events of Alfred's life.

LXXXIII

ETHELWERD'S CHRONICLE: *Chronicon Æthelweardi ab Incarnatione Domini ad annum 975*. Text, Nos. LXIII a; LXXII B. Tr. in *Six Old English Chronicles*. London, 1848.

Of some value for tenth century.

LXXXIV

EMMA, QUEEN OF THE ENGLISH: *Emmæ Anglorum Regina, Ricardi I. Ducis Normannorum Filia, Enconium*. Author unknown. Text, No. LIV and elsewhere. See No. VIII.

Valuable for period from 1012 to 1040.

LXXXV

EDWARD THE CONFESSOR: *Vita Æduuardi Regis qui apud Westmonasterium requiescit*, ed. H. R. Luard in XXXI. For other lives see same series, *Lives of Edward The Confessor*, and No. VIII.

Lives of the Confessor; valuable for his period.

LXXXVI

ALCUIN'S LETTERS: *Beati Flacci Albini seu Alcuini Epistolæ*. These are printed in many collections as well as by themselves. See No. VIII.

Relations between England and the Continent in eighth and ninth centuries.

LXXXVII

SIMEON OF DURHAM'S HISTORY OF THE KINGS OF ENGLAND: *Simconis Dunelmensis Opera et Collectanea*, ed. T. Arnold, in No. XXXI. Texts also in No. LXXII.

Valuable for tenth century, particularly for events in Northumbria. Stops at 1130.

LXXXVIII

HENRY OF HUNTINGDON: *Henrici Archidiaconi Huntingdoniensis Historiæ Anglorum*, ed. T. Arnold, No. XXXI. Text also in Nos. LXIII a; LIV; XXXV, iii. 503; also LXXII. Trans., T. Forester. London (Bohn).

Ballads and traditions not otherwise preserved. Details of history not elsewhere found. Ends with middle of twelfth century.

LXXXIX

WILLIAM OF MALMESBURY: *Willielmi Monachi Malmesburiensis de Gestis Regum Anglorum, libri V et Historiæ Novellæ*. Texts also in Nos. XXXVIII; LIV, 179,

959; XVIII, ii., pp. 1-49, vi. 77; LXIII a; XV, pp. 337-81; XXXI, and elsewhere. See No. VIII. Trans., J. Sharpe. London (Bohn).

High authority for Anglo-Norman period. Gives history of English bishops and monasteries from 597 to 1123 A.D.

XC

FLORENCE OF WORCESTER: *Florentii Wigornensis Monachi Chronicon ex Chronicis ab Adventu Hengesti et Horsi in Britanniam usque ad Annum 1117*, ed. B. Thorpe. No. XXXVIII, 1848. Text also in several editions. Portion from 450 to 1066 in No. LXXII. Trans., T. Forester. London.

Of considerable value. Ends 1116.

XCI

LAWS AND LEGAL DOCUMENTS.

(A) *Ancient Laws and Institutes of England*, ed. B. Thorpe, for Record Commission. No. LX.

Complete collection of laws and legal documents of Anglo-Saxon Period. Invaluable.

Ancient Charters, royal and private, prior to A.D. 1066.

See Rec. Comm. No. LX and Pipe Roll Soc. Publications No. LIX.

(B) *Codex Diplomaticus Ævi Saxonici*, ed. J. M. Kemble. For No. XXXVII.

A valuable collection of charters of Anglo-Saxon Period.

(C) *Cartularium Saxonicum*, ed. W. de G. Gray. London, 1883.

A collection of charters. The critical estimate of authenticity of documents is to be found in last volume. It is valuable.

(D) *Doomsday Book. Seu Liber Censualis Willielmi Primi*, ed. A. Farley and others. London, 1783-1816.

This work is valuable. It should be consulted in connection with Prof. Maitland's erudite work, *Doomsday Book and Beyond*.

(E) *Die Gesetze der Angelsachsen*. R. Schmid. Leipzig, 1858. Supplemented by Liebermann, *Zu den Gesetzen der Angelsachsen in Zeitschrift der Savigny-Stiftung*, vol. V, Weimar, 1885. Germ. Abtheilung, pp. 198 ff.

The documents are given in their original language. German translation, critical explanations of value, and copious glossary is given.

(F) *Handbook to the Land-Charters and other Saxon Documents*, ed. J. Earle. Oxford, 1888.

Useful book by a careful scholar.

(G) *Select Charters and other Illustrations of English Constitutional History, from the Earliest Times to the Reign of Edw. I.*, ed. W. Stubbs. Oxford, 1870, etc.

The most valuable of the small collections.

(H) *Autotype Facsimiles of the Ancient Charters in British Museum*, ed. E. A. Bond. London, 1873-78.

These are interesting and suggestive volumes, and the most important of a class of works with which the student should become familiar.

Ecclesiastical Documents, Laws, Councils, etc. See No. XXXIV.

The student should consult Nos. XI, XIV, for late publications in this and succeeding periods. Much valuable bibliographical material is to be found in periodicals, particularly of the class of which the American Historical Magazine and English Historical Magazine are types.

SECTION 5. — FROM THE CONQUEST TO THE CHARTER

XCII

BAYEUX TAPESTRY. Engraved facsimile, with notes by G. C. Bruce. The Society of Antiquaries.

A valuable record of episodes in the life and times of William the Conqueror. See also *Carmen de Bello Hastingsensi*, Guy of Amiens; text in No. XXXII.

XCIII

EADMER'S HISTORY: *Eadmeri Monachi Cantuariensis Historiæ Novorum sive sui sæculi Libri VI.* London, 1623.

Authority for career of Lanfranc and Anselm. Important for reigns of first two Norman kings.

XCIV

ORDERICUS VITALIS' ECCLESIASTICAL HISTORY: *Orderici Vitalis Angligenæ, cænobii Uticensis monachi,*

Historiæ Ecclesiasticæ, libri XIII. Ed. Prevost. Paris, 1838. Also in Nos. LIV and LXIII g. Also Vitalis' *Histoire de Normandie*. Text, ed. Guizot. Paris, 1825-27. Eng. Trans. of both works, T. Forester. London (Bohn).

Period of the Conquest and the early Norman Kings. Extremely valuable for relations of Normandy and England, Norman history.

XCV

WILLIAM OF POITIERS' LIFE OF WILLIAM THE CONQUEROR: *Gesta Guillelmi Ducis Normannorum et Regis Anglorum, a Guilelmo Pictavensi Lexoviorum, Archidiacono contemporaneo scripta.* Text in No. LXIII b, and No. LIV, vol. 149, p. 1216.

For life of William I., 1036-1067. There are several other accounts of the life of the Conqueror. See *Scriptores Rerum gestarum Wilhelmi Conquestoris*, etc., ed. J. A. Giles, London, 1845.

(WILLIAM OF MALMESBURY'S NEW HISTORY. Cf. preceding section; deals with period 1126-42. It favours the cause of Matilda. Translation.)

XCVI

LIFE OF KING STEPHEN: *Gesta Stephani Regis Anglorum et Ducis Normannorum.* Author unknown, ed. R. Howlett. Text in No. XXXI, also in No. XXXVIII, 1846. Trans., T. Forester. London, 1853 (Bohn). Bound with Chronicle of Henry of Huntingdon.

Of limited value.

XCVII

THE HEXHAM CHRONICLES: *Historia Johannis Prioris Hagustaldensis Ecclesiæ XXV. annorum.* Text ed. R. Howlett. No. XXXI, vol. iii. *Historia piæ memoriæ Ricardi Prioris Hagustaldensis, de Gestis Regis Stephani et de Bello Standardii.* Text ed. R. Howlett. No. XXXI, vol. iii. Translation of both Chronicles in *The Church Historians of England*, vol. iv, pt. 1. The Chronicle of Melrose will be found in same collection of translations.

Reign of Stephen,

XCVII

WILLIAM OF NEWBURY: *Historia a Normannorum in Angliam ingressu usque ad annum 1107*. Several editions of text, among them that of Hearne, Oxford, 1719. Trans. in *Church Historians of England*, vol. iv, pt. 2.

Covers 1066-1108. Especially valuable for Reign of Henry II.

XCIX

BENEDICT OF PETERBOROUGH: *Benedictus Abbas Petroburgensis de vita et gestis Henrici II et Ricardi I.*, ed. Hearne. Oxford, 1735. Trans. and ed., W. Stubbs. No. XXXI. 1867. This work was probably written by Richard Fitz-Neal.

"Indisputably the most important chronicle of the time." The preface to the edition by Bishop Stubbs is valuable.

C

ROGER OF HOVEDEN: *Rogeri de Hoveden Annalium, pars prior et posteriori*. Text in Nos. LXIII a; XXIII; XXXI. 1868-71, etc. Trans. H. T. Riley. London, 1853 (Bohn).

Covers period from 732-1201. From 1170-1201 it is of the greatest importance.

CI

RALPH OF DICETO: *Radulfi de Diceto Decani Londenensis Opera Historica*, ed. W. Stubbs for No. XXXI. 1876. Text also in No. LXIII, a, b; also No. XVIII.

Reigns of Hen. II and Ric. I. Valuable.

CII

RICHARD OF DEVIZES: *Chronicon Ricardi Divisiensis de Rebus gestis Ricardi Primi, Regis Angliæ*, ed. J. A. Giles. No. XXXVIII. 1841.

Covers period 1189-1192. Supplements preceding works.

CIII

GIRALDUS CAMBRENSIS: *Topographia Hiberniæ; sive de Mirabilibus Hiberniæ auctore Silvestro Geraldo Cambrense...Expugnatio Hiberniæ, sive Historia vaticinalis*

Silvestris Giraldi Cambrensis. Itinerarium Cambriae; Cambria Descriptio. Texts in Nos. XVIII, XXXI, etc. Trans. T. Forester, R. C. Hoare. T. Wright. London (Bohn).

Valuable authority in fields covered.

CIV

GLANVILL: *Tractatus de Legibus et Consuetudinibus regni Angliæ, tempore Regis Henrici Secundi compositus.* Text in various editions, e.g., ed. J. Rayner, London, 1780, and in No. LXIV. Trans. J. Beames. London, 1812.

The first book on English Law.

CV

DIALOGUES ON THE EXCHEQUER: *Dialogus de Scaccario*, by Richard, Bishop of London. Text in Madox's *History of the Exchequer*; Stubbs' *Constitutional Documents*.

"An extraordinary mass of information on every important point in the development of constitutional principles before the great Charter."

CVI

STATUTES OF THE REALM *from Original Records and Authentic Manuscripts Printed by Command of His Majesty King George the Third.* London, 1810. See XLVIII C a.

Begin to be of value in this period.

(THE FÆDERA: See Treaties No. LXVIII A.)

SECTION 6. — FROM THE CHARTER TO THE REFORMATION

CVII

ROGER OF WENDOVER'S FLOWERS OF HISTORY: *Rogeri de Wendover Chronica, sive Flores Historiarum*, ed. H. R. Luard in No. XXXI, also in No. LXIII A. Trans. J. A. Giles. London, 1849 (Bohn).

Source for period of Magna Charta, 1214-1235.

CVIII

MATTHEW PARIS: *Matthæi Parisiensis Monachi Sancti Albani, Chronica Majora*, ed. H. R. Luard. No. XXXI.

1872-80. *Matthæi Parisiensis Historia Anglorum, sive, ut vulgo dicitur, Historia Minor*, ed. F. Madden. No. XXXI. 1866-69. Trans. of period from 1235-73. J. A. Giles. London, 1852. From 1259 the work is by an author as to whose name authorities disagree.

Continues Roger of Wendover. Source for 1235-1273.

CIX

WILLIAM RISHANGER'S CHRONICLE: *Wilhelmi Rishanger Chronica et Annales*, ed. H. T. Riley. No. XXXI. Also under title *Continuatio Matthæi ab anno 1259 ad usque annum 1272* in Watt's addition of M. Paris. See also *De Bellis Lewes et Eversham*, or the Chronicle of William de Rishanger of the Baron's Wars. J. O. Halliwell for No. XXVI. 1840. Translation. Continuation in Matthew of Paris.

Source for period 1259-1306.

CX

NICHOLAS TRIVET'S ANNALS: *Annales sex Regum Angliæ qui a comitibus Andegavensibus originem traxerunt*, ed. T. Hog. No. XXXVIII. 1845.

Contemporary source for reign of Edward I.

CXI

CHRONICA MONASTERII, *S. Albani*, ed. H. T. Riley. No. XXXI. London, 1863-76.

These chronicles contain valuable historical material of which the most important is contained in Vol. I, Walsingham's *Historia Anglicana*, 1272-1422 (valuable from 1377 to 1395); II, Rishanger's *Chronica et Annales*, 1259-1307; III, Trokelowe and Blaneфорde, *Chr. et Ann.*, 1259-1296, 1307-1324, 1392-1406; IV, *Gesta Abbatum*, 793-1411.

CXII

MONASTIC ANNALS: *Annales Monastici*, ed. H. R. Luard. No. XXXI. 1864-69.

Valuable sources. Covers period 1004-1432. Particularly refer to the reigns of John, Henry III., and Edward I.

CXIII

WALTER HEMINGFORD: *Chronica Walteri de Hemingburg*, ed. H. C. Hamilton. No. XXXVIII. Text also in No. LXIII A; also edition by Hearne, Oxon. 1731.

Extends from 1066 to 1346. Extremely valuable for last hundred years, covered partly by Walter, partly by other hands.

CXIV

CHRONICLES OF LONDON. Various chronicles; consult No. XXVI for 1844, 1846, 1858; also No. XXXI for *Munimenta Gildhallæ Londoniensis*, ed. H. T. Riley.

This contains laws, regulations, etc., as well as city transactions. Valuable from a political, economical, and social, as well as legal standpoint.

CXV

BRACON: *De Legibus et Consuetudinibus Angliæ*, ed. T. Twiss. No. XXXI. 1878-83. Also several other texts. Translation.

Indispensable for law of the thirteenth century.

CXVI

BRACON'S NOTE BOOK. Ed. by T. W. Maitland. London, 1887.

This work is of great importance, not only because of its being the first book on "case-law," but for the light it throws on the life of the thirteenth century.

CXVII

CORRESPONDENCE: *Royal and other Historical Letters illustrative of the reign of Henry III.*, ed. W. W. Sherley. No. XXXI. 1862-66. *Of the reign of Henry IV.*, ed. F. C. Hingeston: No. XXXI. 1860. *Edward IV., Richard III., and Henry VII.*, ed. J. Gairdner: No. XXXI.

Letters of Bishop Grosseteste, illustrative of the Social Condition of his Time, ed. H. R. Luard: No. XXXI.

Papal Letters are in several editions. See No. XXIV, H, I.

CXVIII

MONUMENTA BRITANNICA *ex Autographis Romanorum Pontificum*. Covers period 1216-1759; ed. by Marini.

These letters are extremely valuable. They present information not elsewhere obtainable.

CXIX

ROBERT OF AVESBURY: *Roberti de Avesbury, Historia de mirabilis gestis Edward Tertii*, ed. Hearne, Oxon. 1720.

Especially good for relations of England with France prior to the battle of Crécy.

CXX

HIGDEN'S POLYCHRONICON: *Polychronicon Ranulphi Higdeni*, ed. C. C. Babington. No. XXXI. Translation by Trevisa, ed. by Babington, Churchill, and Lumby, accompanies text. Text also in No. LXIII d.

Contemporary source for first half of the fourteenth century.

CXXI

CAPGRAVE'S CHRONICLE: *The Chronicle of England from the Creation to 1417*, by John Capgrave, ed. F. C. Hingeston. No. XXXI. 1858.

Very valuable for period 1328-1388.

CXXII

THE BOOK OF THE NOBLE HENRYS: *Johannis Capgrave Liber de Illustribus Henricis*, ed. F. C. Hingeston. No. XXXI. 1858. Translation by same ed.

The work is valuable for its later portion only.

CXXIII

ADAM OF USK'S CHRONICLE: *Chronicon Adæ de Usk* ed. with Translation by E. M. Thompson. London, 1876.

Serviceable for 1377-1404.

CXXIV

THOMAS ELMHAM'S LIFE OF HENRY V.: *Thomæ de Elmham Vita et Gesta Henrici Quinti, Anglorum Regis*, ed. T. Hearne. 1732. Also in No. XXXI. For other lives consult No. XXXVIII, 1846, also *Titi Livii Foro-Julienensis, Vita Henrici Quinti, Regis Angliæ*, ed. by Hearne. 1716.

Of some value for period.

CXXV

THE CONCORDANCE OF HISTORIES: *The New Chronicle of England and France, in two parts*, by Robert Fabyan, ed. H. Ellis. 1811.

Valuable for history of London during War of the Roses.

CXXVI

JOHN AMUNDESHAM'S ANNALS: *Johannis Amundesham, Monachi Monasterii S. Albani, ut videtur, Annales*, ed. Riley in No. XXXI.

For period 1421-1440.

CXXVII

JOHN WHETHAMSTEDE'S REGISTER: *Registrum Abbatie Johannis Whethamstede, Abbatis Monasterii Sancti Albani, iterum suscepta*, ed. Riley in No. XXXI.

1452-1461. The time of the War of the Roses.

CXXVIII

Letters and Papers illustrative of the Wars of the English in France during the Reign of Henry VI, ed. J. Stevenson. No. XXXI. 1861, 1864. This collection includes the Annals and Collections of William of Worcester, the Chronicle of Jean le Bel; the collection is continued by the same editor in *Narratives of the Expulsion of the English from Normandy*. 1449-50. No. XXXI. 1863.

Valuable source. — The French text is translated.

CXXIX

FROISSART'S CHRONICLES: *Chroniques, qui traitent des merueilleuses emprises . . . en France, Angleterre, Bretagne, Burgogne, Escosse, Espagne, Portingal et ès Autres Parties*, ed. J. A. C. Buchon. Paris, 1835. Many translations and editions.

Most interesting. Covers period 1326-1400.

CXXX

MONSTRELET'S NARRATIVES: *Chroniques d'Enguerand de Monstrelet*, ed. J. A. Buchon. Paris, 1826. Several translations, one by T. Johnes. London, 1849 (Bohn).

Begins where Froissart ends. Terminates 1467.

See also Robert Blondel in No. XXXI, 1863.

CXXXI

HISTORIE OF THE ARRIVAL OF EDWARD IV. in *England and the Finall Recouerye of his Kingdomes from Henry VI.*, ed. J. Bruce. No. XXVI. 1838.

Valuable contemporary account.

CXXXII

PASTON LETTERS. Ed. by J. Gairdner. 1872-75. Other editions.

1422-1500. Light on social life of period. Overrated source. The prefaces of the editor are more valuable than the sources.

CXXXIII

CONTINUATION OF THE CROYLAND CHRONICLE: *Petri Blesensis continuatio ad Historiam Ingulphi*. Gale, Fell and Fulman's Scriptures; also elsewhere. Translations. H. T. Riley. London, 1854 (Bohn).

Important for reign of Edward IV. Not to be confounded with the Ingulfian forgery.

CXXXIV

PECOCKS REPRESSOR: *The Repressor of over much Blaming of the Clergy*, ed. C. Babington. No. XXXI. 1860.

This work indicates the theological movement of the fifteenth century.

CXXXV

LITTLE BUNDLE OF TARES: *Fasciculi Zizaniorum Magistri Johannis Wyclif cum Tutico*, ascribed to T. Netter; ed. W. W. Shirley. No. XXXI. 1858.

The contemporary account of the rise of Lollardy. Strongly anti-Lollard.

CXXXVI

WYCLIF'S WORKS. These have appeared in many editions and by various editors. Among them, *Select English Works*, ed. T. Arnold. 1871. *The English Works of Wyclif hitherto unprinted*, ed. F. D. Matthew. No. XXXVII. 1880.

CXXXVII

MORE'S EDWARD V AND RICHARD III: *Historie of the pitifull life and unfortunate death of Edward the Fifth*. Also, *The History of Richard the Third*. In various editions; also in *Kennett's Complete History of England*. London, 1719.

Considered by S. R. Gardiner as a contemporaneous account.

CXXXVIII

Grants, etc. From the Crown during the Reign of Edward The Fifth from the Original Docket-Book and Two Speeches for Opening Parliament, ed. J. G. Nichols. 1854.

Of some value for a period not well illustrated.

SECTION 7.—THE TUDOR PERIOD

CXXXIX

MATERIALS FOR A HISTORY OF THE REIGN OF HENRY VII., ed. W. Campbell. No. XXXI. 1873, 1877.

From original documents. Furnishes valuable material for the study of the reign.

CXL

POLYDORE VIRGIL: *Polydori Vergilii Urbinatis Angli-cæ Histori Libri Vigintiseptem*. Basel, 1534. Also in No. XXVI. Translation, first VIII books, in No. XXVI.

Very high authority from the time of Henry VI., where contemporay record becomes scanty. Somewhat biassed, violently opposed to Wolsey, but otherwise accurate. Should be read in connection with No. CXLVIII.

CXLI

BERNARD ANDRÉ: *Historia Regis Henrici Septimi a Bernardo Andrea Tholosate conscripta, necnon alia quædam ad eundem regem spectantia*, ed. J. Gairdner. No. XXXI. 1858.

Best contemporary record of reign of Henry VII. It is to be found in *Memorials of Henry VII.*, ed. J. Gairdner. No. XXXI, 1847. This work contains other valuable material.

CXLII

VENETIAN RELATION: *A Relation, or rather a true account, of the Isle of England; with sundry particulars of the customs of these People and of the Royal Revenues under Kng Henry the Seventh about the year 1500*. Translation. No. XXVI. 1847.

Political, commercial, financial data of reign of Hen. VII.

CXLIII

STATE PAPERS OF THE TUDOR PERIOD. The collection of manuscripts is extremely large. It has been indexed and epitomized in the various Calendars which have been issued by the Record Commission under the following title: *Calendar of Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII.; Calendar of State Papers, Domestic Series, of the Reigns of Edward VI., Mary, Elizabeth, and James I.; Calendar of State Papers,*

Foreign Series, of the Reign of Edward VI.; Calendar of State Papers, Foreign Series, of the Reign of Mary; Calendar of State Papers, Foreign Series, of the Reign of Elizabeth; Calendar of State Papers and Manuscripts relating to English Affairs preserved in the Archives of Venice and other Libraries of Northern Italy, 1202-1591; Calendar of Letters, Despatches and State Papers dealing with the Negotiations between England and Spain, preserved in the Archives of Simancas and elsewhere, 1485-1543. Selections from the State Papers of Henry VIII. have been issued by the Record Commission under the following titles: *Domestic Correspondence; Correspondence Relating to Ireland; Correspondence Relating to Scotland; Correspondence between England and other Courts.* See No. XXV.

CXLIV

HARPSFIELD'S TREATISE: *The Pretended Divorce between Henry VIII. and Catharine of Aragon*, by Nicholas Harpsfield. No. XXVI, 1878, ed. N. Pococke.

Written from the Catholic point of view. Consult also Reginald Pole's treatise *de Unitate Ecclesiæ*.

CXLV

RECORD OF THE REFORMATION. Oxford, 1870, ed. by N. Pococke.

Valuable material for period 1527-1533.

CXLVI

MORE'S UTOPIA: *A true and pleasaunt worke of the beste State of a publyque weale, and of the newe yle called Utopia: Written in Latine by Syr Thomas More Knyght, and translated into Englyshe by Ralphe Robynson Citizein and Goldsmythe of London, at the procurement and earnest request of George Tadlowe Citizein and Haberdassher of the same city.* London, 1551. Arbers' English Reprints 1869, also other editions.

Social and political evils and abuses of first half of the sixteenth century.

CXLVII

STARKEY'S ENGLAND *in the reign of King Henry the Eighth*, ed. S. J. Herrtage. No. XXXVII. 1878.

Social and political evils and abuses of the sixteenth century.

CXLVIII

HALL'S CHRONICLE: *Containing the History of England during the Reign of Henry the Fourth and the succeeding Monarchs to the End of the Reign of Henry the Eighth, in which are particularly described the Manners and Customs of these Periods.* Various editions. 1548, 1550, 1809.

Should be considered with the work of Polydore Virgil, upon which it is very largely based. Virgil is bitterly opposed to Woolsey and his partisans; Hall flatters them. These books well illustrate the opposing parties of the reign of Henry VIII. for which period they are contemporary sources.

CXLIX

HOLINSHED'S CHRONICLES *of England, Scotland and Ireland.* Various edits. First in 1557, 1586.

Various Chronicles. Valuable sources. Last edition brings record to 1586. First edition contains passages suppressed in succeeding editions but printed separately in 1723.

C

STOW, JOHN

(a) *A Summarie of the Chronicles of England diligently collected, abridged, and continued unto this present year of Christ 1604.* London, 1604.

(b) *Annales or a Generall Chronicle of England. Begun by John Stow: Continued and augmented with matters Foreign and Domestique, Ancient and Moderne, unto the end of this present yeere, 1631.* By Edmund Howes, Gent. London, 1631.

(c) *A Survey of the Cities of London and Westminster and the Burough of Southwark. Containing the Original, Antiquity, Increase, present State and Government of those Cities. Written at first in the Year 1598 by John Stow, Citizen and Native of London. Corrected, improved, and very much enlarged in the Year 1720 by John Strype, M. O. A native also of the said City. The Survey and History brought down to the present time by careful hands. With an appendix.* London, 1754. Several other edits.

These works of Stow are extremely valuable. Stow was unbiassed, well informed, and accurate in description,

CLI

FOXES BOOK OF MARTYRS: *History of the Acts and Monuments of the Church*, by John Foxe. Many editions, among them that edited by J. Cummings. London, 1861.

Covers Reformation period to 1559. Although strongly anti-Catholic, the history is valuable as a source.

CLII

ZURICH LETTERS. Ed. by H. Robinson. No. LVII.

Vol. I contains from the Reformation to 1557; II, 1558-1579; III, 1558-1602. These letters have as their originals the *Epistolæ Tigurinæ*, so often cited by Froude.

CLIII

CHRONICLES OF THE GREY FRIARS OF LONDON.

Ed. J. G. Nichols. No. XXVI. 1852.

Valuable as source for religious tendencies of time.

CLIV

THREE CHAPTERS OF LETTERS *relating to the Suppression of the Monasteries*. Edited from the Originals in the British Museum. Ed. T. Wright. No. XXVI. 1843.

These letters possess interest as a contemporary private description of the suppression of the monasteries.

CLV

NARRATIVES OF THE DAYS OF THE REFORMATION, *chiefly from the manuscripts of John Foxe the Martyrologist, with two contemporary biographies of Archbishop Cranmer*, ed. J. G. Nichols. No. XXVI. 1859.

Interesting and occasionally valuable.

CLVI

LITERARY REMAINS OF KING EDWARD THE SIXTH, *edited from his Autograph Manuscripts, with historical notes and a biographical memoir*, by J. G. Nichols. Roxburghe Club. 1857.

Especially interesting as containing the private journal of the young king.

BIOGRAPHIES. For this period there are a number of valuable contemporary biographies of the principal persons of the day, notably of More, Wolsey, Carew, Elizabeth. Consult catalogues under surname of person whose biography is desired.

CLVII

THE CHRONICLE OF QUEEN JANE *and of Two Years of Queen Mary, and especially of the Rebellion of Sir Thomas Wyatt, written by a resident in the Tower of London*, edited with illustrative documents and notes by J. G. Nichols. No. XXVI. 1850.

The Authority for the days of "Jane the Queen."

CLVIII

THE HISTORY OF THE KIRK OF SCOTLAND *by Mr. David Calderwood some time minister of Crailing*, edited from the original manuscript preserved in the British Museum by T. Thomson. The Wodrow Society. Edinburgh, 1842-1849. Various editions.

Covers period 1514-1625. Strongly anti-episcopal. Whole work tinged with prejudice.

CLIX

HISTORY OF THE CHURCH OF SCOTLAND, *beginning the Year of Our Lord 203 and continued to the end of the reign of King James VI. By the Right Rev. John Spottiswoode, Archbishop of St. Andrew, and Lord Chancellor of Scotland*, ed. M. Russell. Spottiswoode Society. Edinburgh, 1847.

From beginning of 14th century it is most valuable as a source. It is moderate and fair in tone.

CLX

HARDWICKE PAPERS: *Miscellaneous State Papers, ed. by Earl of Hardwicke. From 1501 to 1726.* London, 1778.

These papers are of great interest and value. In matters political they give a side light of great service to the student.

CLXI

THE COMPLEAT AMBASSADOR, *or two Treaties of the intended marriage of Queen Elizabeth of Glorious Memory; comprised in Letters of Negotiation of Sir Francis Walsingham, her Resident in France. Together with the Answers of the Lord Burleigh, the Earl of Leicester, Sir Tho. Smith, and others. Wherein, as in a clear Mirror, may be seen the Faces of the two Courts of England and France, as they then stood, with many remarkable passages of State, not at all mentioned in any his-*

tory. Faithfully Collected by the truly Honourable Sir Dudley Deggs, Knight, late Master of the Roll. London, 1655.

Valuable as giving the personal expressions of some of the greatest men of the time.

CLXII

CABALA SIVE SCRINIA SACRA: *Mysteries of State and Government, in Letters of Illustrious Persons, and Great Ministers of State, as well Foreign as Domestick, in the Reigns of King Henry the Eighth, Queen Elizabeth, King James, and King Charles. Wherein such secrets of Empire, and Publick Affairs as were then in Agitation are clearly Represented; and many remarkable Passages faithfully collected. To which is added in this Third Collection, a Second Part, consisting of a choice collection of Original Letters and Negotiations, never before published.* London, 1691.

An interesting collection of correspondence.

CLXIII

THE SOMERS TRACTS: *A Collection of Scarce and Valuable Tracts, on the most Interesting and Entertaining Subjects; but chiefly such as relate to the History and Constitution of these Kingdoms. Selected from an infinite number in Print and Manuscript, in the Royal, Cotton, Sion, and other Public as well as Private Libraries, particularly that of the Late Lord Somers. The Second Edition Revised, Augmented, and Arranged, by Walter Scott.* London, 1809.

Principally valuable for the seventeenth century. Very extensive.

CLXIV

D'EWES JOURNALS of the Elizabethan Parliaments: *The Journals of all the Parliaments during the reign of Queen Elizabeth, both of the House of Lords and House of Commons. Collected by Sir Simons D'Ewes of Stow-Hall in the Country of Suffolk, Knight and Baronet. Revised and Published by Paul Bowes, of the Middle Temple London, Esq.* London, 1682.

Interesting and valuable. Incorporated in Cobbett (No. XXX).

CLXV

TOWNSHEND'S HISTORICAL COLLECTIONS: *Historical Collections: An Exact Account of the Proceedings of the Four Last Parliaments of Queen Elizabeth of Famous Memory. Wherein is contained the Compleat Journals both of the Lords and Commons, Taken from the Original Records of their Houses, as also the more particular Behaviours of the Worthy Members during all the last notable Sessions; comprehending the Motions, Speeches, and Arguments of the Renowned and Learned Secretary Cecill, Sir Francis Bacon, Sir Walter Rawleigh, Sir Edw. Hobby, and divers other eminent Gentlemen. Together with the most considerable Passages of the History of those times Faithfully and Laboriously collected, by Heywood Townshend Esq., a Member in those Parliaments. The like never Extant before.* London, 1680.

Exhaustive account of proceedings of parliaments named in title.

CLXVI

BURLEIGH PAPERS: (A) *A Collection of State Papers Relating to Affairs in the reigns of King Henry VIII., King Edward VI., Queen Mary and Queen Elizabeth, From the Year 1542 to 1570. Transcribed from Original Letters and other Authentick Memorials, Never before published, Left by William Cecill Lord Burghley, and now remaining at Hatfield House, in the Library of the Right Honourable the present Earl of Salesbury, by Samuel Haynes, A. M. Rector of Hatfield in Hertfordshire.* London, 1740. (B) *A Collection of State Papers Relating to Affairs in the reign of Queen Elizabeth from the year 1571 to 1596. Transcribed from Original Papers and other Authentic Memorials never before published, left by William Cecil Lord Burghley and Reposited in the Library at Hatfield House. By William Murdin, B. D. Rector of Morrow and Vicar of Shalford in Surrey.* London, 1759.

Valuable for period 1542-1596.

CLXVII

GRANVELLE PAPERS: (A) *Papiers d'Etat du Cardinal de Granvelle d'après les manuscrits de la Bibliothèque de Besançon*, ed. C. Weiss. Paris, 1841. (B) *Correspon-*

dance du Cardinal de Granvelle, 1565 to 1586, by various editors, in *Documents inédits sur l'Histoire de France*. 1877-1894. Bruxelles.

Very important source for foreign relations during sixteenth century.

CLXVIII

THE FRENCH DISPATCHES: (A) *Inventaire Chronologique des Documents Relatifs à l'Histoire d'Ecosse*, ed. J. B. A. T. Teulet. Abbotsford Club. Edinburgh, 1839. (B) *Relations Politiques de la France et de l'Espagne avec l'Ecosse au XVI Siècle*, ed. A. Teulet. Paris, 1862. Other editions.

Valuable for accounts of negotiations between France and Scotland.

CLXIX

THE NOAILLES DISPATCHES: *Ambassades de Messieurs de Noailles en Angleterre*, Vertot. Leyden, 1763.

Contain accounts of plots against Queen Mary.

CLXX

LETTRES, INSTRUCTIONS ET MÉMOIRES DE MARIE STUART, *Reine d'Ecosse; publié sur les originaux et les manuscrits du State Paper office de Londres et des Principales Archives et Bibliothèques de l'Europe, et accompagnées d'un résumé chronologique par le Prince Alexandre Labanoff*. London, 1844. There are many editions of the letters of Mary Queen of Scots. Also several collections of historical materials.

Throw much light on the character of the Queen of Scots.

CLXXI

MEMOIRS OF MISSIONARY PRIESTS, *as well secular as regular, and of other Catholics, of both Sexes, that have suffered death in England on Religious accounts from the year of Our Lord 1577 to 1684*, by R. Challoner. First pub. 1741. Reprint, 1878, Edinburgh.

This, and the work that follows, should be read in connection with Foxe's *Book of Martyrs*. Persecution and death was not the lot of one sect alone in the years of the Tudor Dynasty.

CLXXII

RECORDS OF THE ENGLISH PROVINCE OF THE SOCIETY OF JESUS: *Historic Facts illustrative of the Labours and Sufferings of its Members in the Sixteenth and Seventeenth Centuries*, ed. H. Foley. London, 1877.

The Jesuit view of the religious persecutions.

CLXXIII

THE TROUBLES OF OUR CATHOLIC FOREFATHERS, *related by themselves*, ed. J. Morris. London, 1872.

Setting forth the sufferings of the Catholics in Protestant England.

CLXXIV

WINWOOD'S MEMORIALS: *Memorials of Affairs of State in the Reigns of Queen Elizabeth and K. James I. Collected (chiefly) from the Original Papers of the Right Honourable Sir Ralph Winwood, Kt. Sometime one of the Principal Secretaries of State. Comprehending likewise the negotiations... at the Courts of France and Spain and in Holland, Venice, etc.*, ed. E. Sawyer. 1725.

Chiefly valuable upon foreign relations, 1596-1613.

CLXXV

SELECT STATUTES AND OTHER CONSTITUTIONAL DOCUMENTS, *illustrative of the Reigns of Elizabeth and James I.*, ed. G. W. Prothero. Oxford, 1894.

The best handy collection for the period covered. Professor Prothero has in preparation a like volume devoted to the early Tudor Period.

CLXXVI

HARRISON'S DESCRIPTION OF ENGLAND. See *Holingsheds Chronicle*, A.D. 1577-87. Also Reprint ed. J. J. Furnival in New Shakspere Soc. Pubs.

Excellent description of condition of English people in latter part of sixteenth century.

CLXXVII

PHILLIP STUBBE'S *Anatomy of the Abuses in England in Shakspere's Youth*. A.D. 1583. Reprint ed. by F. J. Furnival in N. S. Soc. Pubs.

An interesting arraignment of the sins of the time, 1583 to 1595.

CLXXVIII

WILLIAM STAFFORD'S *Compendious or briefe Examination of certayne ordinary Complaints of divers of our countrymen in these our dayes.* A.D. 1549, ed. Elizabeth Lamoud. Cambridge, 1893.

Deals with status of trade and agriculture. Important source. Has caused revision of various economic theories.

SECTION 8.—THE STRUGGLE FOR CONSTITUTIONAL GOVERNMENT

CLXXIX

CALENDARS OF STATE PAPERS.

Furnish much valuable information. Have been issued of many of the public documents for the reigns of James I., Charles I., and Charles II., as well as for the period of the Commonwealth. Period of James II. in preparation. The student should keep himself informed regarding late publications of this series.

CLXXX

KENNET'S *Complete History of England*; vol. v, *Camden's Annals of King James I.*; vol. vi, *Wilson's History of King James I.* Second ed., London, 1719.

A well edited and impartial collection. Covers period from earliest Britain to death of William III. Made up of monographs upon various reigns. Most of the histories included are of considerable value. Those after vol. IV are most useful.

CLXXXI

COURT OF KING JAMES THE FIRST, by *Dr. Godfrey Goodman, Bishop of Gloucester*; to which are added, *Letters illustrative of the personal history of the most distinguished characters in the Court of that monarch and his predecessors*, ed. J. S. Brewer. London, 1839.

Written from a royalist standpoint. To be read in connection with works of Puritan authors, and balance struck.

CLXXXII

STATE PAPERS, and *Miscellaneous Correspondence of Thomas, Earl of Melrose*, ed. for No. XV by John Hope. Edinburgh, 1837.

Covers period 1599-1625.

CLXXXII

LETTERS from George Lord Carcaw to Sir Thomas Roe, Ambassador to the Count of the Great Mogul, 1615-1617, ed. J. Maclean. No. XXVI. 1860.

General summary and comment of events occurring 1615 to 1617.

CLXXXIV

THE HISTORY OF THE REBELLION AND CIVIL WARS IN ENGLAND, *to which is now added an historical view of the affairs of Inland by Edward Earl of Clarendon (1625-1660).* Oxford, 1842. See also *State Papers collected by Edward, Earl of Clarendon, Commencing from the year MDCXXI. Containing the materials from which his history of the Great Rebellion was composed, and the authorities on which the truth of his relation is founded.* Oxford, 1767. See also *Calendar of the Clarendon State Papers preserved in the Bodleian Library. 1623-57.* Oxford, 1872-76.

Principally devoted to period 1641-1660. Royalist in bias. Important source.

CLXXXV

MEMORIALS AND LETTERS *relating to the History of Britain, (A) in the reign of James the First, 2d ed., 1756. (B) in the reign of Charles the First.* Published from the originals. The second edition corrected and enlarged by Sir David Dalrymple, Lord Hailes. Glasgow, 1766.

Anti-royalist. Compare with No. CLXXXI.

CLXXXVI

PROCEEDINGS IN PARLIAMENT: *Parliamentary Debates.* 1610, ed. S. R. Gardiner. No. XXVI, 1862. *Proceedings and Debates.* 1620-21; in *Parliamentary History*, vol. V. London, 1763. *Notes of Debates.* 1621, ed. S. R. Gardiner. No. XXVI. 1870. 1624-26, same ed. No. XXVI. 1879. 1625, same ed. No. XXVI. 1874; 1618-29. *Rushworth Collections.* London, 1659; *Somers Tracts* supra; *Protests of the Lords.* 1624-1874, ed. J. T. Rogers. Oxford, 1875. See also edit. of London, 1767. 1640-53. *The History of the Parliament of England which began Nov. 3, 1640;* T. May. Oxford, 1854. *Notes*

of *Proceedings in the Long Parliament, temp. Charles I.*, by Ralph Verney, ed. J. Bruce. No. XXVI. 1845. *A Collection of acts and ordinances of General Use*, etc., by H. Scobell. London, 1658.

See also No. XXX and No. LXII.

CLXXXVII

VERNEY PAPERS: *Letters and Papers of The Verney Family down to the end of the year 1639. Printed from the original MSS. in the possession of Sir Harry Verney, Bart.*, ed. J. Bruce. No. XXVI. 1851.

This volume is one of a number devoted to the period of the Puritan Revolution and published in No. XXVI, the catalogue of which should be consulted.

CLXXXVIII

WALKER'S DISCOURSES: *Historical Discourses upon Several Occasions...* by Sir Edward Walker. London, 1705.

Mainly valuable for negotiations between Charles I. and Parliament, in 1648, in Isle of Wight.

CLXXXIX

ENGLAND'S RECOVERY: *Anglia Rediviva; England's Recovery, being the History of the motions, actions and successes of the army under the immediate conduct of his excellency Sir Thomas Fairfax*, ed. J. Sprigg. New edit. Oxford, 1854.

"The acts of Fairfax and his independent army till the reduction of Oxford and the King."

CXC

LETTERS OF KING CHARLES THE FIRST to *Queen Henrietta Maria*, ed. J. Bruce. No. XXVI. 1856.

Written in 1646. Show the double-dealing of the King.

(RYMER'S *Fædera*: See No. LXVIII A.)

(DUMONT'S *Corps Universel Diplomatique du Droit des Gens*: See No. LXVIII B.)

CXCI

CONSTITUTIONAL DOCUMENTS OF THE PURITAN REVOLUTION (1625-1660), ed. S. R. Gardiner, 2d ed. Oxford, 1899.

For the period covered, the most suitable single-volume collection for university use.

CXCII

BURTON'S CROMWELLIAN DIARY: *Diary of Thomas Burton, Esq., Member in the Parliaments of Oliver and Richard Cromwell from 1656 to 1659; now first published from the original autograph manuscript. With an introduction containing an account of the Parliament of 1654 from the Journal of Guibon Goddard, Esq., M.P., also now first printed*, ed. J. T. Rutt. London, 1828.

Valuable for proceedings of the parliament of the Commonwealth.

CXCIII

BURNET'S HISTORY OF HIS OWN TIME: *with notes by the Earls of Dartmouth and Hardwicke, Speaker Onslow, and Dean Swift, etc.* Oxford, 1823. Several other editions.

1660-1713. Much chaff, some wheat.

CXCIV

KENNET'S REGISTER: *A Register and chronicle ecclesiastical and civil: containing matters of fact, Delivered in the words of the most authentick Books, Papers, and Records; Digested in exact Order of Time, with proper Notes and References Towards discovering and connecting the True History of England From the Restauration of King Charles II.* Vol. I (only one printed). London, 1728.

1660-1662. "A valuable collection of materials."

CXCV

ANGLIÆ NOTITIA *or, the Present State of England compleat. Together with Divers Reflections upon the ancient state thereof*, by Edw. Chamberlayne. Many editions. First edition London, 1669.

On the institutions, customs and social life of England.

CXCVI

EVELYN'S DIARY: *Diary and Correspondence of John Evelyn. To which is subjoined The Private Correspondence between King Charles I. and Sir Edward Nicholas, and between Sir Edward Hyde, afterwards Earl of Clarendon, and Sir Richard Brounck*, ed. from the original MSS. at Wollon by Bray and Wheatley. London, 1879.

1620-1706. "A storehouse of illustration as regards the political, literary and scientific movements of his age."

CXCVII

PEPYS'S DIARY: *The Diary of Samuel Pepys... Transcribed from the shorthand manuscript in the Pepysian Library Magdalene College Cambridge by M. Bright, with Lord Braybrooke's Notes*, ed. H. B. Wheatley. London, 1893. Several other editions. Wheatley's edition (1893), though the most exhaustive, is not as suitable for students' use as are earlier editions. See Braybrooke's ed., Lond. 1893.

An interesting, though, from an historical point of view, overrated source.

CXCVIII

LUTTRELL'S DIARY: *A Brief Historical Relation of State Affairs from September 1678 to April 1714*, by Narcissus Luttrell. Printed from MS. in Library of All Souls' College. Oxford, 1857.

A methodical narration of contemporary events.

CXCIX

ELWOOD'S HISTORY: *The History of Thomas Elwood, written by himself*, ed. Morley. London, 1886.

Valuable for information regarding the "Friends" under Charles II. See also *Stephen Crisp and his Correspondence*, London, 1892; *The Penns and Penningtons of the 17th Century*.

CC

WHITELOCK'S MEMORIALS: *Memorials of the English Affairs (A) from the supposed Expedition of Brute to this Island to the End of the Reign of King James the First*, by Sir Bulstrode Whitelock. London, 1709. (B) *From the beginning of the Reign of King Charles the First to the Happy Restoration of King Charles the Second*, by Bulstrode Whitelock. Oxford, 1853. First complete edition. Lond. 1732. Avoid ed. of 1682.

(B) is valuable as "containing the public transactions, civil and military, together with the private consultations and secrets of the Cabinet."

CCI

THURLOE PAPERS: *A Collection of the State Papers of John Thurloe, Esq.; Secretary, First, to the Council of State, and afterwards to the Two Protectors, Oliver and*

Richard Cromwell . . . Containing Memorials of the English Affairs from the year 1638 to the Restoration of King Charles II. Published from the originals, ed. T. Birch. London, 1742.

Thurloe's position gave him unusual facilities, which he successfully employed.

CCII

NALSON'S COLLECTION: *An Impartial Collection of the Great affairs of State from the Beginning of the Scotch Rebellion in the Year MDCXXXIX. To the Murther of King Charles I. Taken from Authentic Records, and Methodically Digested by John Nalson, LL.D.* London, 1682.

Ultra-royalist. Well expresses views of extreme court party.

CCIII

ORMONDE PAPERS: *A Collection of Original Letters and Papers concerning the Affairs of England, from the year 1641 to 1660, found among the Duke of Ormonde's Papers*, ed. T. Carte. London, 1739. See also *Contemporary History of Affairs in Ireland, 1641-52*, ed. J. T. Gilbert for the Irish Archæological and Celtic Society. 1879. Also *Memoirs of Denzil Lord Holles*. From the year 1641-1648. London, 1699.

Valuable for history of Ireland. See Nos. XLVII and LVI and the publications of J. Grasco, J. Gutch, R. Lascelles, R. Theiner and others.

CCIV

GUTHRY'S MEMOIRS: *The Memoirs of Henry Guthry, late Bishop of Dunkeld, in Scotland: wherein the Conspiracies and Rebellion against King Charles I. of Blessed Memory To the time of the Murther of that Monarch are briefly and faithfully related.* London, 1702.

An impartial narration. Useful for period.

CCV

DALRYMPLE'S MEMOIRS: *Memoirs of Great Britain and Ireland from the Dissolution of the last Parliament of Charles II. until the sea-battle off La Hague*, by Sir John Dalrymple. 2d edition. London and Edinburgh, 1771.

Consisting chiefly of letters from the French Ambassadors in England to their Courts and from Charles II., James II.,

King William and Queen Mary, and the Ministers and Generals of those Princes, from the originals.

SECTION 9. — THE HANOVERIAN PERIOD

CCVI

D'AVAUX'S DISPATCHES: *The Negotiations of Count D'Avaux, Ambassador from the Most Christian King, Lewis XIV. to the States General of the United Provinces, containing besides the secret History of the Rise and Motives of the Duke of Monmouth's Rebellion, the Steps taken by the Prince of Orange to ascend the Throne of Great Britain; and the Intrigues of the Court of France to counteract his measures during that interesting Period.* Translated from the French. London, 1754-55.

Interesting and valuable for inner history of movements described. See also *Négotiations de M. le Comte d'Avaux en Irlande, depuis 1689 jusqu'en 1690.* Priv. print., Lond., 1830.

CCVII

DE COMINGE'S CORRESPONDENCE: *A French Ambassador at the Court of Charles II.* Translated by J. J. Jusserand, N. Y. and London, 1892.

A vivid picture of diplomacy and intrigue at Charles' court.

CCVIII

RELIQUIÆ BAXTERIANÆ: *or Mr. Richard Baxter's Narrative of the most Memorable Passages of his life and Times. Faithfully published from his own original manuscript by Matthew Sylvester.* London, 1696.

Written from the independent standpoint. Deals with people rather than politics.

CCIX

NORTH'S LIVES OF THE NORTHS: *The Lives of the Right Hon. Francis North, Baron Guilford, Lord Keeper of the Great Seal under King Charles II. and King James II.; The Hon. Sir Dudley North, Commissioner of the Customs and afterwards of the Treasury, to King Charles II. and The Hon. and Rev. Dr. John North, master of Trinity College, Cambridge, and clerk of the Closet to King Charles II. by The Hon. Roger North.* New ed. London, 1826.

Taking the brothers North as examples of their class, the book well illustrates the manners and motives of the time.

CCX

DRYDEN: *The Works of John Dryden*, ed. Walter Scott. Edinburgh, 1821.

The political works of Dryden illustrate the controversial literature of the royalist type, as do those of Milton the Puritan.

CCXI

MONMOUTH'S REBELLION: *Some Sources of History for the Monmouth Rebellion and the Bloody Assizes*, ed. A. L. Humphreys. Taunton, 1893.

.. May be supplemented by *The Bloody Assizes, A Compleat History of the Life of George, Lord Jeffries*, ed. Goldsmith.

CCXII

SHREWSBURY'S CORRESPONDENCE: *Private and Original Correspondence of Charles Talbot, Duke of Shrewsbury, with King William, the Leaders of the Whig Party, and other distinguished statesmen...*, ed. W. Coxe. London, 1821.

Part 1. Correspondence with William to 1700. Part 2. With Admr. Russell in 1695-96, with Galway in 1695-96 on Grand Alliance. Part 3. Confidential correspondence with Sunderland, Somers, Wharton, Russell, Oxford and Halifax 1695-1704.

CCXIII

MACPHERSON PAPERS: *Original Papers containing the Secret History of Great Britain from the Restoration to the accession of the House of Hanover, To which are prefixed extracts from the life of James II. as written by himself*, ed. J. Macpherson. London, 1775. Other editions.

Worthy of study, although tainted by suspicion engendered by the Ossianic forgeries.

CCXIV

STATE TRACTS: *A Collection of State Tracts Published on occasion of the Late Revolution in 1688 and during the Reign of King William III. To which is prefixed The History of the Dutch War in 1672. Translated from the French Copy printed at Paris in 1682, which was suppressed at the instance of the English Ambassador, because of the Discoveries it made of the League betwixt the Kings of France and England for enslaving Europe, and introducing the Popish Religion into their Kingdoms, and the United Provinces.* London, 1705.

A curious book, illustrating the spirit of the times. It embodies much of the work of the pamphleteers.

CCXV

CARSTARE'S STATE PAPERS AND LETTTERS:

State-Papers and Letters addressed to William Carstares, confidential Secretary to K. William during the whole of his Reign; afterwards Principal of the University of Edinburgh. Relating to Public Affairs in Great-Britain, but more particularly in Scotland, during the Reigns of K. William and Q. Anne... Published from the originals by J. McCormick. Edinburgh, 1774.

A carefully compiled volume of some value.

CCXVI

DEAN SWIFT: *The Works of Jonathan Swift DD. Dean of St. Patricks, Dublin; Containing additional Letters, Tracts and Poems, not hitherto Published; with notes, and a life of the author, by Walter Scott Esq. Edinburgh, 1814.*

In the works of Swift we find some of the most valuable material for this period. History of the Four Last Years of Queen Anne's Reign and Journal to Stella are particularly important for period covered. See also therein: *On the Conduct of the Allies*, on national policy; *Tale of a Tub*, satire on ecclesiastical quarrels; *Draper Letters*, etc., etc.

CCXVII

BOLINGBROKE: *The Works of the Right Honourable Henry St. John, Lord Viscount Bolingbroke. 5 vols., ed. O. Mallet. London, 1754. Letters and Correspondence, public and private, of Lord Bolingbroke, ed. G. Parke. London, 1798.*

Valuable although marred by partisanship and self-justification.

CCXVIII

BOYER'S HISTORY OF QUEEN ANNE: *The History of Queen Anne, wherein all the Civil and Military Transactions of that memorable Reign are faithfully compiled from the best Authorities. The whole intermixed with Several authentic and remarkable Papers; together with all the more Important Debates in Parliament; A compleat List of the most Eminent Persons who died in the course of this Reign; with proper characters of those who rendered themselves most conspicuous in Church and State, ed. A. Boyer. London, 1735.*

Useful as an accessible source.

CCXXIX

OLDMIXON'S HISTORY: *The History of England During the reigns of King William and Queen Mary, Queen Anne and King George I. Being the sequel of the Reigns of the Stuarts...*, ed. J. Oldmixon. London, 1735.

Though coloured by violent partisanship of the Whig policy, this is a useful source. It contains extracts from Parliamentary Debates and from political publications.

CCXX

RAPIN'S HISTORY OF ENGLAND CONTINUED: *The History of England by Mr. Rapin de Thoyras. Continued from the Revolution to the Accession of King George II.*, ed. N. Tindal. London, 1747. The work was extended to include reign of George II and was republished Lond. 1757.

Impartial, accurate, and comprehensive. Covers period 1649-1820.

CCXXI

FLETCHER OF SALTOUN: *The Political Works of Andrew Fletcher, Esq.* Reprint, Lond. 1732.

Opinions of party opposed to union between England and Scotland.

CCXXII

HERVEY'S MEMOIRS: *Memoirs of the Reign of George the Second from his accession to the Death of Queen Caroline...* By John, Lord Hervey, ed. from the original mss. by J. W. Croker. London, 1848.

1737-1742. Court Life and the inner political management. Valuable source.

CCXXIII

KER'S MEMOIRS: *The Memoirs of John Ker of Kersland in North Britain Esq.; containing His secret transactions and negotiations in Scotland, England, the Courts of Vienna, Hanover, and other Foreign Parts. With an account of the Rise and Progress of the Ostend Company in the Austrian Netherlands.* London, 1726.

Ker was a secret agent of the Government, and his work not only throws light upon the policy of the Ministry, but gives a clear idea of the methods of the service in which he was engaged.

CCXXIV

LETTERS OF WILLIAM III. AND LOUIS XIV. *and of their ministers, illustrative of the Domestic and Foreign*

politics of England from the Peace of Ryswick to the accession of Phillip V. of Spain. 1697-1700, ed. P. Grimblot. London, 1848.

Useful in the field indicated in title.

CCXXV

CALENDARS: *of Home Office Papers of the Reign of George III. 1760-65; 1766-69; 1760-72; of Treasury Papers, 1557-1730*. London, 1878-81. See No. XXV.

Extremely valuable.

CCXXVI

BEDFORD CORRESPONDENCE: *Correspondence of John, Fourth Duke of Bedford; selected from the original at Woburn Abbey. With an introduction by Lord John Russell*. London, 1842-46.

Generally useful for political history in period 1742-1770.

CCXXVII

PITT CORRESPONDENCE: *Correspondence of William Pitt, Earl of Chatham... published from the original manuscripts*. London, 1838.

Covers period 1741-1778. The position of the writer enables him to give much information not elsewhere obtainable.

CCXXVIII

THE GRENVILLE PAPERS: *being the correspondence of Richard Grenville, Earl Temple, K.G., and the Rt. Hon. George Grenville, their friends and contemporaries*. Ed. W. J. Smith, Lond., 1852.

Begins 1742. Particularly important after 1755.

CCXXIX

ROSE CORRESPONDENCE: *Diaries and Correspondence of the Right Hon. George Rose; containing original Letters of the most distinguished statesmen of his day*, ed. L. V. Harcourt. London, 1860-62.

Period of 1782-1815. Useful.

CCXXX

AUCKLAND CORRESPONDENCE: *The Journal and Correspondence of William, Lord Auckland*, ed. The Bishop of Bath and Wells. London, 1861-62.

Period of 1782-1814. Scholarly and impartial.

CCXXXI

MEMOIRS OF THE LAST TEN YEARS OF THE REIGN OF GEORGE II., by *Horace Walpole*. London, 1822. Also *Memoirs of the Early Reign of George III*, by *Horace Walpole*, ed. from original MSS. by D. Le Marchant. London, 1845. Also *Correspondence of*, ed. Cunningham. London, 1840-51, and 1888. Also *Journal of the Reign of George III* [1771-1783], ed. Doran. London, 1859. Also *Letters of*, ed. C. D. Yonge, 1891.

The standard source for the period.

CCXXXII

ANNUAL REGISTER, or a *view of the History, Politics and Literature for the year 1758*. (Continued to date.)

Each volume of this important series contains a summary of the principal events of the year in England and foreign countries. Particular attention given to parliamentary proceedings. Texts of important acts and treaties are often quoted. Although in many cases the editor shows bias, this is so readily perceptible as to be of little disadvantage.

CCXXXIII

CAVENDISH'S DEBATES: *Henry Cavendish's Debates of the House of Commons During the Thirteenth Parliament of Great Britain, commonly called the Unreported Parliament; to which are appended Illustrations of the Parliamentary History of the Reign of George the Third; consisting of unpublished letters, Private Journals, Memoirs, etc. Drawn up from the original manuscripts by J. Wright*. London, 1841-43.

Covers period 1768-1771.

CCXXXIV

BUBB DODINGTON'S DIARY: *The Diary of the late George Bubb Dodington, from Mar. 8, 1748-49 to Feby. 6, 1761. With an Appendix containing many curious and interesting Papers referred to in the Diary*. Ed. H. P. Wyndham from the original MSS. 14th edition. 1809.

Useful for period 1748-1761.

CCXXXV

NORTH CORRESPONDENCE: *The Correspondence of King George the Third with Lord North from 1768-1783*, ed. from the originals by W. B. Donne. London, 1867.

Period of 1768-1783.

CCXXXVI

MALMESBURY CORRESPONDENCE: *Diaries and Correspondence of James Harris, First Earl of Malmesbury; containing an account of His Mission to the Courts of Madrid, Frederick the Great, Catherine the Second, and the Hague; and his special missions to Berlin, Brunswick and the French Republic*, ed. Earl of Malmesbury. London, 1844.

Period of 1767-1797.

CCXXXVII

BURKE'S WORKS: *The Works and Correspondence of Edmund Burke*. London, 1852. *Speeches of*, Lond. 1859.

For missing correspondence, completing this valuable source, see T. Macknight's *Life and Times of Edmund Burke*, London, 1858-1861.

CCXXXVIII

CORNWALLIS CORRESPONDENCE: *Correspondence of Charles, First Marquis Cornwallis*. Ed. C. Ross, Lond., 1859.

Period of 1776-1806. Colonial affairs.

CCXXXIX

MEMOIRS OF THE COURT AND CABINETS OF GEORGE THE THIRD. *From original family documents by the Duke of Buckingham and Chandos*. London, 1853-55.

Period of 1782-1800. Valuable for letters of eminent persons.

SECTION 10. — THE NINETEENTH CENTURY

The source material for the study of the history of the Nineteenth Century is so voluminous as to preclude even an attempt to outline its resources within the limits of the space at command. The student will, however, by following the bibliographical lines indicated for preceding periods, have no difficulty in securing an ample supply of material for the study of recent history.

PART II

THE PRE-NORMAN PERIOD

(425 B.C. TO 1066 A.D.)

CHAPTER III

THE BRITAIN OF THE ANCIENTS

11. First Mention of the Islands afterwards called British

Herodotus

HERODOTUS (b. *circa* 484 B.C.; d. 408 B.C.?) was the earliest Grecian historian. His History contains the first authentic allusion to the British Islands. The form of the reference indicates that definite knowledge of the "Tin Islands," — the Cassiterides, generally believed to be the British Islands, — was current among the trading countries of the Mediterranean at a period somewhat earlier than that of Herodotus.

Of the extremities of Europe towards the west I cannot speak with certainty, . . . nor am I acquainted with the islands Cassiterides, from which tin is brought to us.

(*Herodoti Historiarum* libro III^o § 115, ed. Abicht-Kallenberg, Teubner Text Leipsic, 1890.)

12. First Mention of the Islands by Name

Aristotle

ARISTOTLE (b. *circa* 384 B.C.; d. 322 B.C.?) Controversies have more than shaken the belief that *The Universe* was written by Aristotle; yet the undoubted antiquity of the work justifies the insertion of the excerpt given below. If we accept the attribution of *The Universe* to the great Stagirite we may confidently assert that therein is contained the earliest recorded allusion by name to the British Islands.

Without which [the Pillars of Hercules] the ocean flows round the earth; in this ocean, however, are two islands, and those very large, called Britannic, Albion and Ierne, which are larger than those before mentioned and lie beyond the Celti; and other two not less than these, Taprobane, beyond the Indians, lying obliquely in respect of the main land, and that called Phebol, situate over against the Arabic Gulf; moreover not a few small islands, around the Britannic Isles and Iberia, encircle as with a diadem this earth, which we have already said to be an island.

(*Aristoteles de Mundo* capite iii, Prussian Royal Academy. Ed., Berlin, 1831-70.)

13. Evidence of increasing Interest in the British Islands

Polybius

The great History of POLYBIUS (b. *circa* 204 B.C.; d. 122 B.C.?) is chiefly devoted to the affairs of Greece, but it contains many allusions to the contemporaneous history of other countries. From the excerpt given, the increasing interest in and knowledge of the British Islands are apparent. Not only are these islands mentioned by name, but their connection with the tin trade is definitely stated.

Perhaps indeed some will enquire why, having made so long a discourse concerning places in Libya and Iberia, we have not spoken more fully of the outlet at the Pillars of Hercules, nor of the exterior sea, and of the peculiarities which occur therein, nor yet indeed of the Britannic Isles, and the working of tin; nor again, of the gold and silver mines of Iberia; concerning which writers, controverting each other, have discoursed very largely.

Polybii Historiarum libro III. c. 57, ed. Buttner-Wobst and Dindorf, Teubner Text, 1882.)

14. First Roman Invasion of Britain

Cæsar

In the *Commentaries on the Gallic War*, by JULIUS CÆSAR (b. 100 B.C.; d. 44 B.C.) we possess an invaluable source of contemporary information concerning the first two invasions of Britain. Cæsar could speak not only authoritatively as being the leader of the Roman armies, but with clearness and accuracy as being an observant scholar.

These matters being arranged, finding the weather favourable for his voyage, he set sail about the third watch, and ordered the horse to march forward to the farther port, and there embark and follow him. As this was performed rather tardily by them, he himself reached Britain with the first squadron of ships, about the fourth hour of the day, and there saw the forces of the enemy drawn up in arms on all the hills. The nature of the place was this: the sea was confined by mountains so close to it that a dart could be thrown from their summit upon the shore. Considering this by no means a fit place for disembarking, he remained at anchor till the ninth hour, for the other ships to arrive there. Having in the meantime assembled the lieutenants and military tribunes, he told them both what he had learnt from Volusenus, and what he wished to be done; and enjoined them (as the principle of military matters, and especially as maritime affairs, which have a precipitate and uncertain action, required) that all things should be performed by them at a nod and at the

instant. Having dismissed them, meeting both with wind and tide favourable at the same time, the signal being given and the anchor weighed, he advanced about seven miles from that place, and stationed his fleet over against an open and level shore.

But the barbarians, upon perceiving the design of the Romans, sent forward their cavalry and charioteers, a class of warriors of whom it is their practice to make great use in their battles, and following with the rest of their forces, endeavoured to prevent our men landing. In this was the greatest difficulty, for the following reasons, namely, because our ships, on account of their great size, could be stationed only in deep water; and our soldiers, in places unknown to them, with their hands embarrassed, oppressed with a large and heavy weight of armour, had at the same time to leap from the ships, stand amidst the waves, and encounter the enemy; whereas they, either on dry ground, or advancing a little way into the water, free in all their limbs, in places thoroughly known to them, could confidently throw their weapons and spur on their horses, which were accustomed to this kind of service. Dismayed by these circumstances and altogether untrained in their mode of battle, our men did not all exert the same vigour and eagerness which they had been wont to exert in engagements on dry land.

When Cæsar observed this, he ordered the ships of war, the appearance of which was somewhat strange to the barbarians and the motion more ready for service, to be withdrawn a little from the transport vessels, and to be propelled by their oars, and be stationed towards the open flank of the enemy, and the enemy to be beaten off and driven away, with slings, arrows, and engines: which plan was of great service to our men: for the barbarians being startled by the form of our ships and the motions of our oars and the nature of our engines, which was strange to them, stopped, and shortly after retreated a little. And while our men were hesitating [whether they should advance to the shore], chiefly on account of the depth of the sea, he who carried the eagle of the tenth legion, after supplicating the gods that the matter might turn out favourably to the legion, exclaimed, "Leap, fellow-soldiers, unless you wish to betray your eagle to the enemy. I, for my part, will perform my duty to the commonwealth and my general." When he had said this with a loud voice, he leaped from the ship and proceeded to bear the eagle toward the enemy. Then our men,

exhorting one another that so great a disgrace should not be incurred, all leaped from the ship. When those in the nearest vessels saw them, they speedily followed and approached the enemy.

The battle was maintained vigorously on both sides. Our men, however, as they could neither keep their ranks, nor get firm footing, nor follow their standards, and as one from one ship and another from another assembled around whatever standards they met, were thrown into great confusion. But the enemy, who were acquainted with all the shallows, when from the shore they saw any coming from a ship one by one, spurred on their horses, and attacked them while embarrassed; many surrounded a few, others threw their weapons upon our collected forces on their exposed flank. When Cæsar observed this, he ordered the boats of the ships of war and the spy sloops to be filled with soldiers, and sent them up to the succour of those whom he had observed in distress. Our men, as soon as they made good their footing on dry ground, and all their comrades had joined them, made an attack upon the enemy, and put them to flight, but could not pursue them very far, because the horse had not been able to maintain their course at sea and reach the island. This alone was wanting to Cæsar's accustomed success.

(Cæsar's Commentaries on the Gallic War, book IV, c. 23-26.)

15. A Description of the Britons

Cæsar

The characteristics of the Britons and their country are well described by CÆSAR. He possessed keen perception and cool judgment, and he was accustomed to impartially record all which personal interests did not tempt him to colour.

The interior portion of Britain is inhabited by those of whom they say that it is handed down by tradition that they were born in the island itself: the maritime portion by those who had passed over from the country of the Belgæ for the purpose of plunder and making war; almost all of whom are called by the names of those states from which being sprung they went thither, and having waged war, continued there and began to cultivate the lands. The number of the people is countless, and their buildings exceedingly numerous, for the most part very like those of the Gauls: the number of cattle is great. They use either brass or iron rings, determined at a certain weight, as their money. Tin is produced in the mid-land regions; in the maritime, iron; but the quantity of it

is small: they employ brass, which is imported. There, as in Gaul, is timber of every description, except beech and fir. They do not regard it lawful to eat the hare, and the cock, and the goose; they, however, breed them for amusement and pleasure. The climate is more temperate than in Gaul, the colds being less severe...

The most civilized of all these nations are they who inhabit Kent, which is entirely a maritime district, nor do they differ much from the Gallic customs. Most of the inland inhabitants do not sow corn, but live on milk and flesh, and are clad with skins. All the Britains, indeed, dye themselves with wood, which occasions a bluish colour, and thereby have a more terrible appearance in fight. They wear their hair long, and have every part of their body shaved except their head and upper lip. Ten and even twelve have wives common to them, and particularly brothers among brothers, and parents among their children; but if there be any issue by these wives, they are reputed to be the children of those by whom respectively each was first espoused when a virgin.

(*Cæsar's Commentaries on the Gallic War*, book V, c. 12, 14.)

16. The Characteristics of the Britons

Strabo

In the Fourth Book of the *Geography* of STRABO (b. circa 50 B.C.; d. 21 A.D.?) we find an interesting account of the British Islands and their inhabitants. Strabo gathers and reflects the opinions of the historians and geographers who preceded him, but he also adds much derived from his own research and observation. His description is not the less valuable because based on the accounts of Pytheas, Posidonius, Artemidorus, Ephorus, Timagenes, Aristotle, Polybius, Asinius, Pollio, and Cæsar.

... The greatest portion of the island is level and woody, although many tracts are hilly. It produces corn, and cattle, and gold, and silver, and iron, which things are brought thence, and also skins and slaves, and dogs sagacious in hunting: and the Celti use these for the purposes of war also, as well as their native dogs. The men are taller than the Celti, with hair less yellow; and slighter in their persons. As an instance of their height, we ourselves saw at Rome some youths who were taller by so much as half a foot than the tallest there; but they were distorted in their lower limbs, and in other respects not symmetrical in their conformation. Their manners are in part like those of the Celti, though in part more simple and barbarous: insomuch that some of them, though possessing plenty of milk, have not skill enough to

make cheese, and are totally unacquainted with horticulture and other matters of husbandry. There are several states among them. In their wars they make use of chariots for the most part, as do some of the Celti. Forests are their cities: for having enclosed an ample space with felled trees, here they make themselves huts, and lodge their cattle, though not for any long continuance. Their atmosphere is more subject to rain than to snow; even in their clear days the mist continues a considerable time, insomuch that throughout the whole day the sun is only visible for three or four hours about noontime; and this must be the case also among the Morini and the Menapii, and among all the neighbouring people. The deified Cæsar twice passed over to the island, but quickly returned, having effected nothing of consequence, nor proceeded far into the country, as well on account of some commotions in Celtica, both among his own soldiers and among the barbarians, as because of the loss of many of his ships at the period of the full moon, when both the flux and reflux of the tides were greatly increased. Nevertheless he gained two or three victories over the Britons, although he had transported thither only two legions of his army, and brought away hostages, and slaves, and much other booty. At the present time, however, some of the princes there having, by their embassies and court, gained the friendship of Cæsar Augustus, have dedicated their offerings in the Capitol; and have brought the whole island into a state little short of intimate union with the Romans. They bear moderate taxes laid both on the imports and exports from Celtica; which are ivory bracelets and necklaces, amber, and vessels of glass, and such like mean merchandise; wherefore the island would be hardly worth a garrison, for it would require at least one legion and some cavalry to enforce tribute from them; and the total expenditure for the army would be equal to the additional revenue: for if a tribute were levied, of necessity the imposts must be diminished, and at the same time some dangers would be incurred if force were to be employed.

(*Strabonis Geographiæ*, lib. I., ed. Meineke, Teubner Text, 1866.)

17. The Tin Mines of Britain

Diodorus Siculus

The History, or *Bibliotheca*, of DIODORUS SICULUS was probably written in the last half of the first century of our era. The work has not been preserved in its entirety. From the fragments relating to Britain I have selected one which speaks of the tin trade of that island. It was to the product of its mines that Britain owed its earliest importance.

... Further they say that its aboriginal tribes inhabit Britain, in their usages still preserving the primitive modes of life; for in their wars they use chariots, as the ancient Greek heroes are reported to have done in the Trojan war, and they have mean habitations, constructed for the most part of reeds or of wood, and they gather in their harvest by cutting off the ears of corn and storing them in subterraneous repositories: that they cull therefrom daily such as are old, and, dressing them, have thence their sustenance: that they are simple in their manners, and far removed from the cunning and wickedness of men of the present day: that their modes of living are frugal, and greatly differing from the luxury consequent on riches: that the island is thickly inhabited, and the temperature of the air exceedingly cold, inasmuch as it lies directly beneath the north: and that they have many kings and princes, and for the most part live peaceably together.

But concerning its institutions and other peculiarities we shall write at detail when we arrive at Cæsar's expedition into Britain: at present we shall speak of the tin which is there produced. They who dwell near that promontory of Britain which is called Belerium are singularly fond of strangers, and, from their intercourse with foreign merchants, civilized in their habits. These people obtain the tin by skilfully working the soil which produces it; this being rocky, has earthy interstices, in which, working the ore, and then fusing, they reduce it to metal; and when they have formed it into cubical shapes, they convey it to a certain island, lying off Britain, named Ictis: for at the low tides the intervening space being laid dry, they carry thither, in waggons, the tin in great abundance. A singular circumstance happens with respect to the neighbouring islands lying between Europe and Britain; for at the high tides, the intervening passage being flooded, they seem islands; but at the low tides, the sea retreating and leaving much space dry, they appear peninsulas. From hence the merchants purchase the tin from the natives, and carry it across into Gaul; and finally journeying by land through Gaul for about thirty days, they convey their burdens on horses to the outlet of the river Rhone. This much, therefore, to have spoken concerning tin may suffice.

18. Phases of the Roman Occupation

Tacitus

No Roman writer has given a description so comprehensive and clear of methods of war in Britain as has TACITUS. In the *Life of Agricola* this author furnishes information regarding the British Islands and their inhabitants, which is of utmost value to the student. Tacitus possessed peculiar facilities for directly obtaining authentic and minute information regarding the actual occurrences in the country of the Britons.

Who were the first inhabitants of Britain, whether indigenous or immigrants, is a question involved in the obscurity usual among barbarians. Their temperament of body is various, whence deductions are formed of their different origins. Thus, the ruddy hair and large limbs of the Caledonians point out a German derivation. The swarthy complexion and curled hair of the Silures, together with their situation opposite to Spain, render it probable that a colony of the ancient Iberi possessed themselves of that territory. They who are nearest Gaul resemble the inhabitants of that country; whether from the duration of hereditary influence, or whether it be that when lands jut forward in opposite directions, climate gives the same condition of body to the inhabitants of both. On a general survey, however, it appears probable that the Gauls originally took possession of the neighbouring coast. The sacred rites and superstitions of these people are discernible among the Britons. The languages of the two nations do not greatly differ. The same audacity in provoking danger, and irresolution in facing it when present, is observable in both. The Britons, however, display more ferocity, not being yet softened by a long peace: for it appears from history that the Gauls were once renowned in war, till, losing their valour with their liberty, languor and indolence entered among them. The same change has also taken place among those of the Britons who have been long subdued; but the rest continue such as the Gauls formerly were.

Their military strength consists in infantry: some nations also make use of chariots in war; in the management of which, the most honourable person guides the reins, while his dependents fight from the chariot. The Britons were formerly governed by kings, but at present they are divided in factions and parties among their chiefs; and this want of union for concerting some general plan is the most favourable circumstance to us, in our designs against so powerful a people. It is seldom that two or three communities concur

in repelling the common danger; and thus, while they engage singly, they are all subdued. The sky in this country is deformed by clouds and frequent rains; but the cold is never extremely rigorous. The length of the days greatly exceeds that in our part of the world. The nights are bright, and, at the extremity of the island, so short, that the close and the return of day is scarcely distinguished by a perceptible interval. It is even asserted that, when clouds do not intervene, the splendour of the sun is visible during the whole night, and that it does not appear to rise and set, but to move across. The cause of this is, that the extreme and flat parts of the earth, casting a low shadow, do not throw up the darkness, and so night falls beneath the sky and the stars. The soil, though improper for the olive, the vine, and other productions of warmer climates, is fertile, and suitable for corn. Growth is quick, but maturation slow; both from the same cause, the great humidity of the ground and the atmosphere. The earth yields gold and silver and other metals, the rewards of victory. The ocean produces pearls, but of a cloudy and livid hue; which some impute to unskilfulness in the gatherers; for in the Red Sea the fish are plucked from the rocks alive and vigorous, but in Britain they are collected as the sea throws them up. For my own part, I can more readily conceive that the defect is in the nature of the pearls, than in our avarice.

The Britons cheerfully submit to levies, tributes, and the other services of government, if they are not treated injuriously; but such treatment they bear with impatience, their subjection only extending to obedience, not to servitude. Accordingly Julius Cæsar, the first Roman who entered Britain with an army, although he terrified the inhabitants by a successful engagement, and became master of the shore, may be considered rather to have transmitted the discovery than the possession of the country to posterity...

In the beginning of the next summer, Agricola... having sent forwards his fleet to spread its ravages through various parts of the coast, in order to excite an extensive and dubious alarm, he marched with an army equipped for expedition, to which he had joined the bravest of the Britons whose fidelity had been proved by a long allegiance, and arrived at the Grampian hills, where the enemy was already encamped. For the Britons, undismayed by the event of the former action, expecting revenge or slavery, and at length taught that the common danger was to be repelled by union alone,

had assembled the strength of all their tribes by embassies and confederacies. Upwards of thirty thousand men in arms were now descried; and the youth, together with those of a hale and vigorous age, renowned in war, and bearing their several honorary decorations, were still flocking in...

... They burst forth into cheerful acclamations, and instantly flew to arms. Thus eager and impetuous, he formed them so that the centre was occupied by the auxiliary infantry, in number eight thousand, and three thousand horse were spread in the wings. The legions were stationed in the rear, before the intrenchments; a disposition which would render the victory signally glorious, if it were obtained without the expense of Roman blood; and would ensure support if the rest of the army were repulsed. The British troops, for the greater display of their numbers, and more formidable appearance, were ranged upon the rising grounds, so that the first line stood upon the plain; the rest, as if linked together, rose above one another upon the ascent. The charioteers and horsemen filled the middle of the field with their tumult and careering. Then Agricola, fearing from the superior number of the enemy lest he should be obliged to fight as well on his flanks as in front, extended his ranks; and although this rendered his line of battle less firm, and several of his officers advised him to bring up the legions, yet, filled with hope, and resolute in danger, he dismissed his horse, and took his station on foot before the colours.

At first the action was carried on at a distance. The Britons, armed with long swords and short targets, with steadiness and dexterity avoided or struck down our missile weapons, and at the same time poured in a torrent of their own. Agricola then encouraged three Batavian and two Tungrian cohorts to fall in and come to close quarters; a method of fighting familiar to these veteran soldiers, but embarrassing to the enemy from the nature of their armour; for the enormous British swords, blunt at the point, are unfit for close grappling, and engaging in a confined space. When the Batavians, therefore, began to redouble their blows, to strike with the bosses of their shields, and mangle the faces of the enemy; and, bearing down all those who resisted them on the plain, were advancing their line up the ascent; the other cohorts, fired with ardour and emulation, joined in the charge and overthrew all who came in their way: and so great was their impetuosity in the pursuit of victory, that they left

many of their foes half dead or unhurt behind them. In the meantime the troops of cavalry took to flight, and the armed chariots mingled in the engagement of infantry; but although their first shock occasioned some consternation they were soon entangled among the close ranks of the cohorts, and the inequalities of the ground; not the least appearance was left of an engagement of cavalry; since the men, long keeping their ground with difficulty, were forced along with the bodies of the horses; and frequently, straggling chariots, and affrighted horses without their riders, flying variously as terror impelled them, rushed obliquely athwart or directly through the lines.

Those of the Britons who, yet disengaged from the fight, sat on the summits of the hills, and looked with careless contempt on the smallness of our numbers, now began gradually to descend; and would have fallen on the rear of the conquering troops, had not Agricola, apprehending this very event, opposed four reserved squadrons of horse to their attack, which, the more furiously they had advanced, drove them back with the greater celerity. Their project was thus turned against themselves; and the squadrons were ordered to wheel from the front of the battle and fall upon the enemy's rear. A striking and hideous spectacle now appeared on the plain: some pursuing; some striking; some making prisoners, whom they slaughtered as others came in their way. Now, as their several dispositions prompted, crowds of armed Britons fled before inferior numbers, or a few, even unarmed, rushed upon their foes, and offered themselves to a voluntary death. Arms and carcasses, and mangled limbs, were promiscuously strewed, and the field was dyed in blood. Even among the vanquished were seen instances of rage and valour. When the fugitives approached the woods, they collected, and surrounded the foremost of the pursuers, advancing incautiously and unacquainted with the country; and had not Agricola, who was everywhere present, caused some strong and lightly-equipped cohorts to encompass the ground, while part of the cavalry dismounted made way through the thickets, and part on horseback scoured the open woods, some disaster would have proceeded from the excess of confidence. But when the enemy saw their pursuers again formed in compact order, they renewed their flight, not in bodies as before, or waiting for their companions, but scattered and mutually avoided each other; and thus took their way to the most distant and devious retreats. Night and satiety of slaughter put an end to the

pursuit. Of the enemy ten thousand were slain: on our part three hundred and sixty fell; among whom was Aulus Atticus, the præfect of a cohort, who, by his juvenile ardour, and the fire of his horse, was borne into the midst of the enemy.

Success and plunder contributed to render the night joyful to the victors; whilst the Britons wandering and forlorn, amid the promiscuous lamentations of men and women, were dragging along the wounded; calling out to the unhurt; abandoning their habitations, and in the rage of despair setting them on fire; choosing places of concealment, and then deserting them; consulting together, and then separating. Sometimes, on beholding the dear pledges of kindred and affection, they were melted into tenderness, or more frequently roused into fury; insomuch that several, according to authentic information, instigated by a savage compassion, laid violent hands upon their own wives and children. On the succeeding day, a vast silence all around, desolate hills, the distant smoke of burning houses, and not a living soul descried by the scouts, displayed more amply the face of victory. After parties had been detached to all quarters without discovering any certain traces of the enemy's flight, or any bodies of them still in arms, as the lateness of the season rendered it impracticable to spread the war through the country, Agricola led his army to the confines of the Horesti. Having received hostages from this people, he ordered the commander of the fleet to sail round the island; for which expedition he was furnished with sufficient force, and preceded by the terror of the Roman name. He himself then led back the cavalry and infantry, marching slowly, that he might impress a deeper awe on the newly conquered nations; and at length distributed his troops into their winter-quarters.

(*Life of Agricola*, Tacitus, London, 1875, II, p. 355 *et seq.*)

19. Consequences of the Withdrawal of the Romans

Gildas

The short treatise *De Excidio Britanniae* was written by GILDAS (b. *circa* 516; d. 570?) about 560 A.D. Gildas cannot therefore be styled a contemporary source for the Romano-British period of English History, yet he is the accepted and sole — though not wholly satisfactory — authority for the period extending from the early part of the fifth century until about 560 A.D.

The Romans, therefore, left the country... No sooner were they gone, than the Picts and Scots, like worms which

in the heat of mid-day come forth from their holes, hastily land again from their canoes, in which they had been carried beyond the Cichican valley, differing one from another in manners, but inspired with the same avidity for blood, and all more eager to shroud their villainous faces in bushy hair than to cover with decent clothes those parts of their body which required it. Moreover, having heard of the departure of our friends, and their resolution never to return, they seized with greater boldness than before on all the country towards the extreme north as far as the wall. To oppose them there was placed on the heights a garrison equally slow to fight and ill adapted to run away, a useless and panic-struck company, who slumbered away days and nights on their unprofitable watch. Meanwhile the hooked weapons of their enemies were not idle, and our wretched countrymen were dragged from the wall and dashed against the ground. Such premature death, however, painful as it was, saved them from seeing the miserable sufferings of their brothers and children. But why should I say more? They left their cities, abandoned the protection of the wall, and dispersed themselves in flight, more desperately than before. The enemy, on the other hand, pursued them with more unrelenting cruelty than before, and butchered our countrymen like sheep, so that their habitations were like those of savage beasts; for they turned their arms upon each other, and for the sake of a little sustenance, imbrued their hands in the blood of their fellow-countrymen. Thus foreign calamities were augmented by domestic feuds; so that the whole country was entirely destitute of provisions, save such as could be procured in the chase.

Again, therefore, the wretched remnant, sending to Ætius, a powerful Roman citizen, address him as follows:— "To Ætius, now consul for the third time: the groans of the Britons." And again a little further, thus:— "The barbarians drive us to the sea; the sea throws us back on the barbarians: thus two modes of death await us, we are either slain or drowned." The Romans, however, could not assist them...

(The works of Gildas, 'The History,' §§ 19, 20. In *Six Old English Chronicles*. London, 1872.)

20. The Power of Britain Revives

Bede

The distress and despair into which the Britons fell at the withdrawal of the Romans is well shown by the preceding selec-

tion from GILDAS. The condition of depression did not endure. The valour of the native Britons re-asserted itself, and gave to the island a period of prosperity.

In the meantime, the aforesaid famine distressing the Britons more and more, and leaving to posterity lasting memorials of its mischievous effects, obliged many of them to submit themselves to the depredators; though others still held out, confiding in the Divine assistance, when none was to be had from men. These continually made excursions from the mountains, caves, and woods, and, at length, began to inflict severe losses on their enemies, who had been for so many years plundering the country. The Irish robbers thereupon returned home, in order to come again soon after. The Picts, both then and afterwards, remained quiet in the farthest part of the island, save that sometimes they would do some mischief, and carry off booty from the Britons.

When, however, the ravages of the enemy at length ceased, the island began to abound with such plenty of grain as had never been known in any age before.

(Bede's *Ecclesiastical History*, book I, c. 14, ed. J. A. Giles, London, 1894.)

CHAPTER IV

THE BIRTH OF THE ENGLISH NATION

21. The Ancient Germans

Cæsar

The famous *Commentaries* of CÆSAR contain the first accurate and comprehensive account of the primitive Germans, the ancestors of the English. In connection with the excerpt given, the *Germania* of TACITUS may be read with profit.

The Germans differ much from these usages, for they have neither Druids to preside over sacred offices, nor do they pay great regard to sacrifices. They rank in the number of gods those alone whom they behold, and by whose instrumentality they are obviously benefited, namely, the sun, fire, and the moon; they have not heard of the other deities even by report. Their whole life is occupied in hunting and in the pursuits of the military art; from childhood they devote themselves to fatigue and hardships. Those who have remained chaste for the longest time, receive the greatest commendation among their people...

They do not pay much attention to agriculture, and a large portion of their food consists in milk, cheese, and flesh; nor has any one a fixed quantity of land or his own individual limits; but the magistrates and the leading men each year apportion to the tribes and families, who have united together, as much land as, and in the place in which, they think proper, and the year after compel them to remove elsewhere. For this enactment they advance many reasons — lest seduced by long-continued custom, they may exchange their ardour in the waging of war for agriculture; lest they may be anxious to acquire extensive estates, and the more powerful drive the weaker from their possessions; lest they construct their houses with too great a desire to avoid cold and heat; lest the desire of wealth spring up, from which cause divisions and discords arise; and that they may keep the common people in a contented state of mind, when each sees his own means placed on an equality with [those of] the most powerful.

It is the greatest glory to the several States to have as wide deserts as possible around them, their frontiers having been laid waste. They consider this the real evidence of their prowess, that their neighbours shall be driven out of their lands and abandon them, and that no one dare settle near them; at the same time, they think that they shall be on that account the more secure, because they have removed the apprehension of a sudden incursion. When a State either repels war waged against it, or wages it against another, magistrates are chosen to preside over that war with such authority, that they have power of life and death. In peace there is no common magistrate, but the chiefs of provinces and cantons administer justice and determine controversies among their own people. Robberies which are committed beyond the boundaries of each State bear no infamy, and they avow that these are committed for the purpose of disciplining their youth and of preventing sloth. And when any of their chiefs has said in an assembly "that he will be their leader, let those who are willing to follow, give in their names"; they who approve of both the enterprise and the man arise and promise their assistance and are applauded by the people; such of them as have not followed him are accounted in the number of deserters and traitors, and confidence in all matters is afterwards refused them. To injure guests they regard as impious; they defend from wrong those who come to them for any purpose whatever, and esteem them inviolable; to them the houses of all are open and maintenance is freely supplied.

(*Cæsar's Commentaries on the Gallic War*, book VI, c. 21, 22, 23.,

22. The Coming of Hengist and Horsa

Bede

The accounts of the coming of the Teutons to the Isle of Thanet are extremely unsatisfactory. Although this is the case, yet to the student of history the beginning of the Teutonic invasion of Briton is of such importance as to demand an illustration. The statement of BEDE possesses at least an element of probability.

They consulted what was to be done, and where they should seek assistance to prevent or repel the cruel and frequent incursions of the Northern Nations; and they all agreed with their King Vortigern to call over to their aid, from the parts beyond the sea, the Saxon nation... In the year of our Lord 449... then the nations of the Angles, or Saxons, being invited by the aforesaid King, arrived in Britain with three

long ships, and had a place assigned them to reside in by the same king, in the eastern part of the island, that they might thus appear to be fighting for their country, whilst their real intentions were to enslave it. Accordingly they engaged with the enemy, who were come from the north to give battle, and obtained the victory; which, being known at home in their own country, as also the fertility of the country, and the cowardice of the Britons, a more considerable fleet was quickly sent over, bringing a still greater number of men, which, being added to the former, made up an invincible army. The newcomers received of the Britons a place to inhabit, upon condition that they should wage war against their enemies for the peace and security of the country, whilst the Britons agreed to furnish them with pay. Those who came over were of the three most powerful nations of Germany — Saxons, Angles, and Jutes. From the Jutes are descended the people of Kent, and of the Isle of Wight, and those also in the province of the West-Saxons who are to this day called Jutes, seated opposite to the Isle of Wight. From the Saxons, that is, the country which is now called Old Saxony, came the East-Saxons, the South-Saxons, and the West-Saxons. From the Angles, that is, the country which is called Anglia, and which is said, from that time, to remain desert to this day, between the provinces of the Jutes and the Saxons, are descended the East-Angles, the Midland-Angles, Mercians, all the race of the Northumbrians, that is, of those nations that dwell on the north side of the river Humber, and the other nations of the English. The two first commanders are said to have been Hengist and Horsa. Of whom Horsa, being afterwards slain in battle by the Britons, was buried in the eastern parts of Kent, where a monument, bearing his name, is still in existence. They were the sons of Victgilsus, whose father was Vecta, son of Woden; from whose stock the royal race of many provinces deduce their original. In a short time, swarms of the aforesaid nations came over into the island, and they began to increase so much, that they became terrible to the natives themselves who had invited them. Then, having on a sudden entered into league with the Picts, whom they had by this time repelled by the force of their arms, they began to turn their weapons against their confederates. At first, they obliged them to furnish a greater quantity of provisions; and, seeking an occasion to quarrel, protested, that unless more plentiful supplies were brought them, they would break the con-

federacy, and ravage all the island; nor were they backward in putting their threats in execution. In short, the fire kindled by the hands of these pagans, proved God's just revenge for the crimes of the people; not unlike that which, being once lighted by the Chaldeans, consumed the walls and city of Jerusalem. For the barbarous conquerors acting here in the same manner, or rather the just Judge ordaining that they should so act, they plundered all the neighbouring cities and country, spread the conflagration from the eastern to the western sea, without any opposition, and covered almost every part of the devoted island. Public as well as private structures were overturned; the priests were everywhere slain before the altars; the prelates and the people, without any respect of persons, were destroyed with fire and sword; nor was there any to bury those who had been thus cruelly slaughtered. Some of the miserable remainder, being taken in the mountains, were butchered in heaps. Others, spent with hunger, came forth and submitted themselves to the enemy for food, being destined to undergo perpetual servitude, if they were not killed even upon the spot. Some, with sorrowful hearts, fled beyond the seas. Others, continuing in their own country, led a miserable life among the woods, rocks, and mountains, with scarcely enough food to support life, and expecting every moment to be their last.

(Bede's *Ecclesiastical History of England*, book I, c. 16.
Ed. J. A. Giles, London, 1894.)

23. England becomes One Kingdom

Anglo-Saxon Chronicle

The development of the over-lordship of the kings of Wessex, and the establishment of the dynasty of its ruler Egbert as Bretwalders of England, is set forth in the *Anglo-Saxon Chronicle*. This old chronicle is unique among histories, stretching as it does from the beginning of the Christian era to 1154 A.D. and being contemporary history from the fifth century. It is believed to have been an annual compilation, made at one of the chief monasteries, and its authority is in the main accepted. There are several manuscript copies extant. Details supplementary to the statements of the chronicle of the progress of the union of England into one kingdom under Egbert—from whom every sovereign of England, including the Danish kings and William the Conqueror, has claimed descent—may be found in BEDE'S *Ecclesiastical History*.

KENT BEGUN

A. 455. This year Hengist and Horsa fought against king Vortigern at the place which is called Ægels-threp [Ayles-

ford] and his brother Horsa was there slain, and after that Hengist obtained the kingdom, and Æsc his son.

SUSSEX BEGUN

A. 477. This year Ælla, and his three sons, Cymen, and Wlencing, and Cissa, came to the land of Britain with three ships, at a place which is named Cymenes-ora, and there slew many Welsh, and some they drove in flight into the wood that is named Andreds-lea.

WESSEX BEGUN

A. 495. This year two ealdormen came to Britain, Cerdic and Cynric his son, with five ships, at the place which is called Cerdics-ore, and the same day they fought against the Welsh.

NORTHUMBRIA BEGUN

A. 547. This year Ida began to reign, from whom arose the royal race of North-humbria; and he reigned twelve years, and built Bambrough, which was at first enclosed by a hedge, and afterwards by a wall.

SUPREMACY OF NORTHUMBRIA

A. 617. This year Ethelfrid the king of the North-humbrians was slain by Redwald king of the East-Angles, and Edwin the son of Alla succeeded to the kingdom, and subdued all Britain, the Kentish-men alone excepted. And he drove out the ethelings, sons of Ethelfrid; that is to say, first Eanfrid, Oswald, and Owsy, Oslac, Oswudu, Oslaf, and Offa.

SUPREMACY OF MERCIA

A. 792. This year Offa, king of the Mercians, commanded the head of king Ethelbert to be struck off. And Osred, who had been king of the Northumbrians, having come home after his exile, was seized and slain on the 18th before the Kalends of October; and his body lies at Tinemouth.

A. 796. This year Kenulf, king of the Mercians, laid waste Kent as far as the marshes, and took Pren their king, and led him bound into Mercia, and let his eyes be picked out and his hands be cut off.

SUPREMACY OF WESSEX

A. 823. This year there was a battle between the Welsh and the men of Devon at Camelford; and the same year Egbert king of the West-Saxons and Bernulf king of the Mercians fought at Wilton, and Egbert got the victory, and there was great slaughter made.

EGBERT OVERLORD OF BRITAIN

A. 827. . . . And the same year king Egbert conquered the kingdom of the Mercians, and all that was south of the Humber; and he was the eighth king who was Bretwalda.

(From the *Anglo-Saxon Chronicle*, for years named.
Ed. Giles, 1875.)

24. The Re-Establishment of Christianity

Bede

Although the venerable BEDE (673 to *circa* 735) was born a century after the landing of St. Augustine, we turn to his *Ecclesiastical History* as the native source of our knowledge of the *regeneration* of Christianity in Britain. Bede has been termed the Father of English History. His learning was great, his industry constant, and his means of information at once extensive and unique. His History is an indispensable source for the period of which it treats.

Augustine, thus strengthened by the confirmation of the blessed father Gregory, returned to the work of the word of God, with the servants of Christ, and arrived in Britain. The powerful Ethelbert was at that time king of Kent; he had extended his dominions as far as the great river Humber, by which the Southern Saxons are divided from the Northern. On the east of Kent is the large Isle of Thanet containing according to the English way of reckoning, 600 families, divided from the other land by the river Wantsum, which is about three furlongs over, and fordable only in two places, for both ends of it run into the sea. In this island landed the servant of our Lord, Augustine, and his companions, being, as is reported, nearly forty men. They had, by order of the blessed Pope Gregory, taken interpreters of the nation of the Franks, and sending to Ethelbert, signified that they were come from Rome, and brought a joyful message, which most undoubtedly assured to all that took advantage of it everlasting joys in heaven, and a kingdom that would never end, with the living and true God. The king having heard this, ordered them to stay in that island where they had landed, and that they should be furnished with all necessaries, till he should consider what to do with them. For he had before heard of the Christian religion, having a Christian wife of the royal family of the Franks, called Bertha; whom he had received from her parents, upon condition that she should be permitted to practise her religion with the bishop Luidhard, who was sent with her to preserve

her faith. Some days after, the king came into the island, and sitting in the open air, ordered Augustine and his companions to be brought into his presence. For he had taken precaution that they should not come to him in any house, lest, according to an ancient superstition, if they practised any magical arts, they might impose upon him, and so get the better of him. But they came furnished with Divine, not with magic virtue, bearing a silver cross for their banner, and the image of our Lord and Saviour painted on a board; and singing the litany, they offered up their prayers to the Lord for the eternal salvation both of themselves and of those to whom they were come. When he had sat down, pursuant to the king's commands, and preached to him and his attendants there present, the word of life, the king answered thus: — "Your words and promises are very fair, but as they are new to us, and of uncertain import, I cannot approve of them so far as to forsake that which I have so long followed with the whole English nation. But because you are come from far into my kingdom, and, as I conceive, are desirous to impart to us those things which you believe to be true, and most beneficial, we will not molest you, but give you favourable entertainment, and take care to supply you with your necessary sustenance; nor do we forbid you to preach and gain as many as you can to your religion." Accordingly he permitted them to reside in the city of Canterbury, which was the metropolis of all his dominions, and, pursuant to his promise, besides allowing them sustenance, did not refuse them liberty to preach. It is reported that, as they drew near to the city, after their manner, with the holy cross, and the image of our sovereign Lord and King, Jesus Christ, they, in concert, sung this litany: "We beseech thee, O Lord, in all thy mercy, that thy anger and wrath be turned away from this city, and from thy holy house, because we have sinned. Hallelujah."

There was on the east side of the city, a church dedicated to the honour of St. Martin, built whilst the Romans were still in the island, wherein the queen, who, as has been said before, was a Christian, used to pray. In this they first began to meet, to sing, to pray, to say mass, to preach, and to baptize, till the king, being converted to the faith, allowed them to preach openly, and build or repair churches in all places.

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Nor was it long before he gave his teachers a settled residence in his metropolis of Canterbury, with such possessions of different kinds as were necessary for their subsistence.

(Bede's *Ecclesiastical History of England*, book I, c. 25-26.
Ed. J. A. Giles, London, 1894.)

CHAPTER V

ANGLO-SAXON LAWS

The Dooms of the Kings Alfred, Athelstan, and Edgar,

Ancient Laws and Institutes of England, ed. Thorpe

The importance of the Anglo-Saxon laws as sources of English History is enhanced by the absence of authentic contemporary literature. Were it not for those laws, we should know but little of the period.

The law of a people is synchronous with the development of that people. Legislation not only indicates the progress of a race, but preserves its characteristics from generation to generation. In the selections given below it is sought to indicate the development of early English law from the crudest customary law to the more scientific enactments of the later Anglo-Saxon kings, and also to give the material which best illustrates the development of fiscal, political, and legal institutions of the early English.

25. Of a Man's Eye-Wound and of Various Other Limbs

From the Laws of King Alfred

If a man strike out another's eye, let him pay LX. shillings, and VI. shillings and VI. pennies and a third part of a penny, as "bōt." If it remain in the head, and he cannot see aught therewith, let one third part of the "bōt" be retained.

If a man strike off another's nose, let him make "bōt" with LX. shillings.

If a man strike out another's tooth in the front of his head, let him make "bōt" for it with VIII. shillings: if it be the canine tooth, let IV. shillings be paid as "bōt." A man's grinder is worth XV. shillings.

If a man's tongue be done out of his head by another man's deeds, that shall be as eye-"bōt."

If a man be wounded on the shoulder so that the joint-oil flow out, let "bōt" be made with XXX. shillings.

If the thumb be struck off, for that shall be XXX. shillings as "bōt."

If the nail be struck off, for that shall be V. shillings as "bōt."

If the shooting [i.e. fore] finger be struck off, the "bōt" is XV. shillings; for its nail it is IV. shillings.

If a man's thigh be pierced, let XXX. shillings be paid him as "bōt"; if it be broken, the "bōt" is likewise XXX. shillings.

If the great toe be struck off, let XX. shillings be paid him as "bōt"; if it be the second toe, let XV. shillings be paid as "bōt"; if the middlemost toe be struck off, there shall be IX. shillings as "bōt"; if it be the fourth toe, there shall be VI. shillings as "bōt"; if the little toe be struck off, let V. shillings be paid him.

If a man's arm, with the hand, be entirely cut off before the elbow, let "bōt" be made for it with LXXX. shillings.

For every wound before the hair, and before the sleeve, and beneath the knee, the "bōt" is two parts more.

26. Of Lordless Men

From the Laws of King Athelstan

And we have ordained: respecting those lordless men of whom no law can be got, that the kindred be commanded that they domicile him to folk-right, and find him a lord in the folk-mote; and if they then will not or cannot produce him at the term, then be he thenceforth a "flyma," and let him slay him for a thief who can come at him: and whoever after that shall harbour him, let him pay for him according to his "wēr," or by it clear himself.

27. Of Landless Men

From the Laws of King Athelstan

And we have ordained: if any landless man should become a follower in another shire, and again seek his kinsfolk; that he may harbour him on this condition, that he present him to folk-right if he there do any wrong, or make "bōt" for him.

28. Of the Doom concerning Hot Iron and Water

From the Laws of King Athelstan

And concerning the ordeal we enjoin by command of God, and of the archbishop, and of all bishops: that no man come within the church after the fire is borne in with which the ordeal shall be heated, except the mass-priest, and him who shall go thereto: and let there be measured nine feet from the stake to the mark, by the man's feet who goes thereto. But if it be water, let it be heated till it low to boiling. And be the kettle of iron or of brass, of lead or of clay. And if it be a single accusation, let the hand dive after the stone up

to the wrist; and if it be threefold, up to the elbow. And when the ordeal is ready, then let two men go in of either side; and be they agreed that it is so hot as we before have said. And let go in an equal number of men of either side, and stand on both sides of the ordeal, along the church; and let these all be fasting, and abstinent from their wives on that night; and let the mass-priest sprinkle holy water over them all, and let each of them taste of the holy water, and give them all the book and the image of Christ's rood to kiss: and let no man mend the fire any longer when the hallowing is begun; but let the iron lie upon the hot embers till the last collect: after that, let it be laid upon the "stapela"; and let there be no other speaking within, except that they earnestly pray to Almighty God that he make manifest what is sooth-est. And let him go thereto; and let his hand be enveloped, and be it postponed till after the third day, whether it be foul or clean within the envelope. And he who shall break this law, be the ordeal with respect to him void, and let him pay to the king CXX. shillings as "wite."

"Wal-reaef" is a "nithing's" deed: if any one desire to deny it, let him do so with eight and forty full-born thanes.

29. Of Wēr-Gilds

From the Laws of King Athelstan

1. The North people's king's "gild" is XXX. thousand "thrymsas"; fifteen thousand "thrymsas" are for the "wēr-gild," and XV. thousand for the "cyne-dom." The "wēr" belongs to the kindred, and the "cyne-bōt" to the people.

2. An archbishop's and an atheling's "wēr-gild" is XV. thousand "thrymsas."

3. A bishop's and an "ealdorman's," VIII. thousand "thrymsas."

4. A "hold's" and a king's high-reeve's, IV. thousand "thrymsas."

5. A mass-thane's and a secular thane's, II. thousand "thrymsas."

6. A "ceorl's" "wēr-gild" is CC. and LXVI. "thrymsas," that is CC. shillings by Mercian law.

7. And if a "Wilisc"-man thrive so that he have a hide of land, and can bring forth the king's "gafol," then is his "wēr-gild" CXX. shillings. And if he thrive not except to half a hide, then let his "wēr" be LXXX. shillings.

8. And if he have not any land, and yet be free, let him be paid for with LXX. shillings.

9. And if a "ceorlish" man thrive, so that he have V. hides of land for the king's "ut-ware," and any one slay him, let him be paid for with two thousand "thrymsas."

10. And though he thrive, so that he have a helm and coat of mail, and a sword ornamented with gold, if he have not that land, he is nevertheless a "ceorl."

11. And if his son and his son's son so thrive, that they have so much land; afterwards, the offspring shall be of "gesithcund" race, at two thousand ["thrymsas"].

12. And if they have not that, nor to that can thrive, let them be paid for as "ceorlish."

30. Of People's Ranks and Law

From the Laws of King Athelstan

1. It was whilom, in the laws of the English, that people and law went by ranks, and then were the counsellors of the nation of worship worthy, each according to his condition, "eorl" and "ceorl," "thegen" and "theoden."

2. And if a "ceorl" thrived, so that he had fully five hides of his own land, church and kitchen, bell-house and "burh"-gate-seat, and special duty in the king's hall, then was he thenceforth of thane-right worthy.

3. And if a thane thrived, so that he served the king, and on his summons, rode among his household; if he then had a thane who him followed, who to the king's "ut-ware," five hides had, and in the king's hall served his lord, and thrice with his errand went to the king; he might thenceforth, with his "fore-oath," his lord represent, at various needs, and his plaint lawfully conduct, wheresoever he ought.

4. And he who so prosperous a vicegerent had not, swore for himself according to his right, or it forfeited.

5. And if a thane thrived, so that he became an "eorl," then was he thenceforth of "eorl"-right worthy.

6. And if a merchant thrived, so that he fared thrice over the wide sea by his own means; then was he thenceforth of thane-right worthy.

7. And if there a scholar were, who through learning thrived, so that he had holy orders, and served Christ; then was he thenceforth of rank and power so much worthy, as then to those orders rightfully belonged, if he himself conducted so as he should; unless he should misdo, so that he those orders' ministry might not minister.

8. And if it happened, that any one a man in orders, or a

stranger, anywhere injured, by word or work; then pertained it to king and to the bishop, that they that should make good, as they soonest might.

31. This is the Ordinance how the Hundred shall be Held

From the Laws of King Edgar

First, that they meet always within four weeks: and that every man do justice to another.

2. That a thief shall be pursued...

If there be present need, let it be made known to the hundred-man, and let him [make it known] to the tithing-men; and let them all go forth to where God may direct them to go: let them do justice on the thief, as it was formerly the enactment of Edmund. And let the "ceap-gild" be paid to him who owns the cattle, and the rest be divided into two; half to the hundred, half to the lord, excepting men; and let the lord take possession of the men.

3. And the man who neglects this, and denies the doom of the hundred, and the same be afterwards proved against him; let him pay to the hundred XXX. pence, and for the second time sixty pence; half to the hundred, half to the lord. If he do so a third time, let him pay half a pound: for the fourth time, let him forfeit all that he owns, and be an outlaw, unless the king allow him to remain in the country.

4. And we have ordained concerning unknown cattle; that no one should possess it without the testimonies of the men of the hundred, or of the tithing man; and that he be a well-trusty man: and, unless he have either of these, let no vouching to warranty be allowed him.

5. We have also ordained: if the hundred pursue a track into another hundred, that notice be given to the hundred-man, and that he then go with them. If he neglect this, let him pay thirty shillings to the king.

6. If any one flinch from justice and escape, let him who held him to answer for the offence pay the "angylde." And if any one accuse him of having sent him away, let him clear himself, as it is established in the country.

7. In the hundred, as in any other "gemōt," we ordain: that folk-right be pronounced in every suit, and that a term be fixed when it shall be fulfilled. And he who shall break that term, unless it be his lord's decree, let him make "bōt" with XXX. shillings, and, on the day fixed, fulfil that which he ought to have done before.

8. An oxes bell, and a dog's collar, and a blast-horn; either of these three shall be worth a shilling, and each is reckoned an informer.

9. Let the iron that is for the threefold ordeal weigh III pounds; and for the single, one pound.

32. Here is the Ordinance of King Edgar

From the Laws of King Edgar

This is the ordinance that King Edgar, with the counsel of his "witan," ordained, in praise of God, and in honour to himself, and for the behoof of all his people.

These then are first: that God's churches be entitled to every right; and that every tithe be rendered to the old minster to which the district belongs; and that be then so paid, both from a thane's "in-land," and from "geneat-land," so as the plough traverses it.

Of Church-Scots

But if there be any thane who on his "boc-land" has a church, at which there is a burial-place; let him give the third part of his own tithe to his church. If any one have a church at which there is not a burial-place, then, of the nine parts, let him give to his priest what he will; and let every church-scot go to the old minster, according to every free hearth; and let plough-alms be paid, when it shall be fifteen days over Easter.

33. Of Tithes

From the Laws of King Edgar

And let a tithe of every young be paid by Pentecost; and of the fruits of the earth by the equinox; and every church-scot by Martinmass, on peril of the full "wite" which the doom-book specifies: and if any one will not then pay the tithe, as we have ordained, let the king's reeve go thereto, and the bishop's, and the mass-priest of the minster, and take by force a tenth part for the minster to which it is due; and assign to him the ninth part; and let the eight parts be divided into two, and let the land-lord take possession of half, half the bishop; be it a king's man, be it a thane's.

34. Of the Hearth-Penny

From the Laws of King Edgar

And let every hearth-penny be rendered by St. Peter's mass-day: and he who shall not have paid it by that term, let him be led to Rome, and in addition thereto [pay] XXX.

pence, and bring then a certificate thence, that he has there rendered so much; and when he comes home, pay to the king a hundred and twenty shillings. And if again he will not pay it, let him be led again to Rome, and with another such "bōt"; and when he comes home again, pay to the king two hundred shillings. At the third time, if he then yet will not, let him forfeit all that he owns.

35. Of Festivals and Fasts

From the Laws of King Edgar

And let the festivals of every Sunday be kept, from noon-tide of the Saturday, till the dawn of Monday, on peril of the "wite" which the doom-book specifies; and every other mass-day, as it may be commanded: and let every ordained fast be kept with every earnestness; and every Friday's fast, unless it be a festival: and let soul-scot be paid for every Christian man to the minster to which it is due; and let every church-"grith" stand as it has best stood.

36. Secular Ordinance

From the Laws of King Edgar

Now this is the secular ordinance which I will that it be held. This then is first what I will: that every man be worthy of "folk-right," as well poor as rich: and that righteous dooms be judged to him; and let there be such remission in the "bōt" as may be becoming before God and tolerable before the world.

IN CASE ANY ONE APPLY TO THE KING: AND OF THE "WER"

And let no man apply to the king, in any suit, unless he at home may not be worthy of law, or cannot obtain law. If the law be too heavy, let him seek a mitigation of it from the king: and, for any "bōt"-worthy crime, let no man forfeit more than his "wēr."

OF UNRIGHTEOUS JUDGMENT

And let the judge who judges wrong to another pay to the king one hundred and twenty shillings as "bōt"; unless he dare to prove on oath, that he knew it not more rightly; and let him forfeit forever his thaneship; unless he will buy it of the king, so as he is willing to allow him: and let the bishop of the shire exact the "bōt" into the king's hands.

IN CASE ANY ONE ACCUSE ANOTHER

And he who shall accuse another wrongfully, so that he, either in money or prosperity, be the worse; if then the other

can disprove that which any one would charge to him; be he liable in his tongue; unless he make him compensation with his "wēr."

OF GEMOTS

And let the hundred-"gemōt" be attended as it was before fixed; and thrice in the year let a "burh-gemōt" be held; and twice, a shire-"gemōt"; and let there be present the bishop of the shire and the "ealdorman," and there both expound the law of God as the secular law.

OF "BORHS"

And let every man so order that he have a "borh"; and let the "borh" then bring and hold him to every justice; and if any one then do wrong and run away, let the "borh" bear that which he ought to bear. But if it be a thief, and if he can get hold of him within twelve months; let him deliver him up to justice, and let be rendered to him what he before had paid.

OF "TIHT-BYSIG" PERSONS

And he who is "tyht-bysig," and is untrue to the people, and has shunned these "gemōts" thrice; then let there be chosen from the "gemōt" those who shall ride to him, and then let him yet find a "borh" if he can: but if he cannot, let them seize him as they can, whether alive or dead; and take all that he owns; and let the accuser be paid an "angylde" for his "ceap-gild": and let the lord moreover take half, half the hundred; and if either a kinsman or a stranger refuse the riding, let him pay to the king a hundred and twenty shillings: and let a notorious thief seek whatever he may seek, or he who is found plotting against his lord, so that they never seek life; unless the king will grant them salvation of life.

OF MONEY AND MEASURES

And let one money pass throughout the king's dominion; and that let no man refuse: and let one measure and one weight pass; such as is observed at London and at Winchester; and let the way of wool go for CXXX. pence; and let no man sell it cheaper; and if any one sell it cheaper, either publicly or privately, let each pay XL. shillings to the king, both him who sells it, and him who buys it.

This then is what I will: that every man be under "borh," both within the "burhs," and without the "burhs"; and let witness be appointed to every "burh" and to every hundred.

To every "burh," let there be chosen XXXIII. as witness.

To small "burhs," and in every hundred, XII.; unless ye desire more.

And let every man, with their witness, buy and sell every of the chattels that he may buy or sell, either in a "burh" or in a wapentake; and let every of them, when he is first chosen as witness, give the oath that he never, neither for money, nor for love, nor for fear, will deny any of those things of which he was witness, nor declare any other thing in witness, save that alone which he saw or heard: and of such sworn men, let there be at every bargain two or three as witness.

CHAPTER VI

THE DANES IN ENGLAND

37. The Danish Invasions

Anglo-Saxon Chronicle

The Danish invasions of England extended from 787 through three centuries. During this period there was no decade free from harrying and slaughter. Ireland and Scotland did not escape the ravagers, but England had to bear the brunt of the struggle. The *Anglo-Saxon Chronicle* tells us of the first coming of the Danes in 787, and then marks the progress of the Danish power until this culminated in the reign of Canute. The selections given, from the *Chronicle* and from ASSER's *Life of Alfred*, note but a few of the salient points in the history of the establishment of the Danish power. The works cited should be consulted for details.

A. 787. This year king Bertric took to wife Eadburga, king Offa's daughter; and in his day first came three ships of Northmen, out of Hæretha-land [Denmark]. And then the reve rode to the place, and would have driven them to the king's town, because he knew not who they were: and they there slew him. These were the first ships of Danishmen which sought the land of the English nation.

• • • • •
A. 855. This year the heathen men, for the first time, remained over winter in Sheppey:...

• • • • •
A. 878. This year, during midwinter, after twelfth night, the army stole away to Chippenham, and overran the land of the West-Saxons, and sat down there; and many of the people they drove beyond sea, and of the remainder the greater part they subdued and forced to obey them, except king Alfred: and he, with a small band, with difficulty retreated to the woods and to the fastnesses of the moors. And the same winter the brother of Hingwar and of Halfdene came with twenty-three ships to Devonshire in Wessex; and he was there slain, and with him eight hundred and forty

men of his army: and there was taken the war-flag which they called the RAVEN. After this, at Easter king Alfred with a small band constructed a fortress at Athelney; and from this fortress, with that part of the men of Somerset which was nearest to it, from time to time they fought against the army. Then in the seventh week after Easter he rode to Brixton, on the east side of Selwood; and there came to meet him all the men of Somerset, and the men of Wiltshire, and that portion of the men of Hampshire which was on this side of the sea; and they were joyful at his presence. On the following day he went from that station to Iglea [Iley], and on the day after this to Heddington, and there fought against the whole army, put them to flight, and pursued them as far as their fortress: and there he sat down fourteen days. And then the army delivered to him hostages, with many oaths, that they would leave his kingdom, and also promised him that their king should receive baptism: and this they accordingly fulfilled. And about three weeks after this king Gothrun came to him, with some thirty men who were of the most distinguished in the army, at Aller, which is near Athelney: and the king was his godfather at baptism; and his chrism-loosing was at Wedmore: and he was twelve days with the king; and he greatly honoured him and his companions with gifts.

(*Anglo-Saxon Chronicle, for years given, ed. cited.*)

38. Alfred at Athelney

Asser

ASSER, a monk of St. David's, afterward Bishop of Sherborne, was an adviser and intimate of King Alfred. He wrote a *Life of the king*, which, though containing few facts not also to be found in the *Anglo-Saxon Chronicle*, is of interest and value. The following selection graphically describes the period of discouragement which formed the prelude to the victories of the greatest of the early English kings, as well as the battle in which the power of the Danes was overthrown.

The same year, after Easter, king Alfred, with a few followers, made for himself a stronghold in a place called Athelney, and from thence sallied with his vassals and the nobles of Somersetshire, to make frequent assaults upon the pagans. Also, in the seventh week after Easter, he rode to the stone of Egbert, which is in the eastern part of the wood which is called Selwood, which means in Latin *Silva Magna*, the Great Wood, but in British *Coit-mawr*. Here he was met by all the neighbouring folk of Somersetshire, and Wiltshire, and Hampshire, who had not, for fear of the pagans, fled

beyond the sea; and when they saw the king alive after such great tribulation, they received him, as he deserved, with joy and acclamations, and encamped there for one night. When the following day dawned, the king struck his camp, and went to Okely, where he encamped for one night. The next morning he removed to Edington, and there fought bravely and perseveringly against all the army of the pagans, whom, with the divine help, he defeated with great slaughter, and pursued them flying to their fortification. Immediately he slew all the men, and carried off all the booty that he could find without the fortress, which he immediately laid siege to with all his army; and when he had been there fourteen days, the pagans, driven by famine, cold, fear, and last of all by despair, asked for peace, on the condition that they should give the king as many hostages as he pleased, but should receive none of him in return, in which form they had never before made a treaty with any one. The king, hearing that, took pity on them, and received such hostages as he chose; after which the pagans swore, moreover, that they would immediately leave the kingdom; and their king, Gothrum, promised to embrace Christianity, and receive baptism at king Alfred's hands. All of which articles he and his men fulfilled as they had promised. For after seven weeks Gothrum, king of the pagans, with thirty men chosen from the army, came to Alfred at a place called Aller, near Athelney, and there king Alfred, receiving him as his son by adoption, raised him up from the holy laver of baptism on the eighth day, at a royal villa named Wedmore, where the holy chrism was poured upon him. After his baptism he remained twelve nights with the king, who, with all his nobles, gave him many fine houses.

(Asser's *Annals of the Reign of Alfred the Great*, ed. J. A. Giles, in *Six Old English Chronicles*, London, 1872.)

39. Alfred and Guthrum's Peace

From the Laws of King Alfred

After the defeat of Guthrum and the Danes in 878, a peace was sworn between the rival forces. This was recorded in the treaty of Chippenham—sometimes incorrectly called the Peace of Wedmore. By this treaty, England was divided between Alfred and Guthrum, and laws were provided for the government of the respective portions.

This is the peace that king Alfred, and king Guthrum, and the "witan" of all the English nation, and all the people that are in East-Anglia, have all ordained and with oaths con-

firmed, for themselves and for their descendants, as well for born as for unborn, who reckon of God's mercy or of ours.

1. First, concerning our land-boundaries: up on the Thames, and then up on the Lea, and along the Lea unto its source, then right to Bedford, then up the Ouse unto Watling-Street.

2. Then is this: if a man be slain, we estimate all equally dear, English and Danish, at VIII. half-marks of pure gold; except the "ceorl" who resides on "gafol-land," and their "liesings": they also are equally dear, either at CC. shillings.

3. And if a king's thane be accused of man-slaying, if he dare to clear himself, let him do that with XII. king's thanes. If any one accuse that man who is of less degree than the king's thane, let him clear himself with XI. of his equals, and with one king's thane. And so in every suit which may be for more than IV. "manuces." And if he dare not, let him pay for it three-fold, as it may be valued.

OF WARRANTORS

4. And that every man know his warrantor for men, and for horses, and for oxen.

5. And we all ordained on that day that the oaths were sworn, that neither bond nor free might go to the host without leave, no more than any of them to us. But if it happen, that from necessity any of them will have traffic with us, or we with them, with cattle and with goods, that is to be allowed in this wise; that hostages be given in pledge of peace, and as evidence whereby it may be known that the party has a clean back.

(*Ancient Laws and Institutes of England*, ed. cited.)

40. The Second Period of Danish Invasion

Anglo-Saxon Chronicle

For many years after the peace between Alfred and Guthrum the Danes refrained from attacking England; this not so much because of the treaty, as because of the strong kings who succeeded Alfred. But with Æthelred the Redeless came the second series of invasions. These led to the overthrow of the English kings and the establishment of Canute upon the throne.

A. 980. In this year abbat Ethelgar was consecrated bishop on the 6th before the Nones of May, to the episcopal seat at Selsey. And in the same year was Southampton ravaged by a ship-force, and the most part of the townsmen slain, and led captive. And that same year was Thanet-land ravaged

by a ship-force, and the most part of the townsmen slain, and led captive. And that same year was Legecester-shire [Chester] ravaged by a northern ship-force. In this year St. Dunstan and Alferc the ealdorman fetched the holy king's body, St. Edward's, from Wareham, and bore it with much solemnity to Shaftsbury.

A. 991. This year was Ipswich ravaged; and after that, very shortly, was Britnoth the ealdorman slain at Maldon. And in that year it was decreed that tribute, for the first time, should be given to the Danish-men, on account of the great terror which they caused by the sea-coast; that was at first ten thousand pounds: this counsel was first given by archbishop Siric.

A. 994. In this year came Olave and Sweyn to London, on the nativity of St. Mary, with ninety-four ships; and they then continued fighting stoutly against the city, and would also have set fire to it. But they there sustained more harm and evil than they ever supposed that any citizens would be able to do unto them. But the holy mother of God, on that day, shewed her mercy to the citizens and delivered them from their foes. And they then went thence, and wrought the utmost evil that ever any army could do, by burning, and plundering, and by man-slaying, both by the sea-coast and among the East-Saxons, and in the land of Kent, and in Sussex, and in Hampshire. And at last they took to themselves horses, and rode as far as they would, and continued doing unspeakable evil. Then the king and his witan decreed that they should be sent to, and promised tribute and food, on condition that they should cease from their plundering: which terms they accepted. And then all the army came to Southampton, and there took up their winter-quarters: and there they were victualled from all the realm of the West-Saxons, and they were paid sixteen thousand pounds of money. Then the king sent bishop Elphege [II.] and Ethelwerd the ealdorman after king Olave, and the while, hostages were delivered to the ships; and they then led Olave with much worship to the king at Andover. And king Ethelfred received him at the bishop's hands, and royally gifted him. And then Olave made a covenant with him, even as he also fulfilled, that he never again would come hostilcly to the English nation.

A. 1002. ... And in that year the king ordered all the

Danish-men who were in England to be slain. This was done on St. Brice's mass-day...

A. 1011. In this year sent the king and his witan to the army, and desired peace, and promised them tribute and food, on condition that they would cease from their plundering. They had then overrun, 1st, East-Anglia, and 2d, Essex, and 3d, Middlesex, and 4th, Oxfordshire, and 5th, Cambridge-shire, and 6th, Hertfordshire, and 7th, Buckinghamshire, and 8th, Bedfordshire, and 9th, half of Huntingdonshire, and 10th, much of Northamptonshire; and south of Thames, all Kent, and Sussex, and Hastings, and Surry, and Berkshire, and Hampshire, and much of Wiltshire. All these misfortunes befel us through unwise counsel, that they were not in time offered tribute, or fought against; but when they had done the most evil, then peace and truce were made with them. And nevertheless, for all the truce and tribute, they went everywhere in bands, and plundered our miserable people, and robbed and slew them...

A. 1016. ... The army then went again up into Essex, and passed into Mercia, and destroyed whatever it over-ran.

When the king learned that the army was upward, then assembled he, for the fifth time, all the English nation, and followed after them, and overtook them in Essex, at the down which is called Assingdon: and there they strenuously joined battle. Then did Edric the caldorman, as he had oft before done, begin the flight first with the Maisevethians, and so betrayed his royal lord and the whole people of the English race. There Canute had the victory; and all the English nation fought against him...

A. 1017. In this year king Canute obtained the whole realm of the English race, and divided it into four parts: Wessex to himself, and East-Anglia to Thurkill, and Mercia to Edric, and North-humbria to Eric.

A. 1017. This year Canute was chosen king.

(*Anglo-Saxon Chronicle for years given, ed. cited.*)

41. The Laws of Canute

From the Laws of King Canute.

The examples of the laws of the Danish kings of England prove, among other things, the continuity of the legal principles developed in the days of the Anglo-Saxon kings. They also demonstrate the justice and equity of Canute, a king whose greatness endeared him, despite his alien birth, to that heterogeneous mass which was called the English People.

THAT EVERY MAN SHALL BE IN A TITHING

And we will, that every freeman be brought into a hundred, and into a tithing, who wishes to be entitled to "lad" or to "wēr," in case any one shall slay him after he is XII. years of age; or let him not afterwards be entitled to any free rights, be he "heorth-fæst," be he follower. And that every one be brought into a hundred and in "borh"; and let the "borh" hold and lead him to every plea. Many a powerful man will, if he can and may, defend his man in whatever way it seems to him that he may the more easily defend him; whether as a freeman or a "theow." But we will not allow that injustice.

SECULAR DOOMS

Cap. 17. And let no one apply to the king unless he may not be entitled to any justice within his hundred; and let the hundred gemot be applied to under penalty or the "wite," so as it is right to apply to it.

Cap. 18. And thrice a year let there be a "burh-gemōt," and twice a "shire-gemōt"; under penalty of the "wite," as is right, unless there be need oftener. And let there be present the bishop of the shire and the caldorman, and there let both expound as well the law of God as the secular law.

Cap. 19. And let no man take any distress either in the shire or out of the shire, before he has twice demanded his right in the hundred. If at the third time he have no justice, then let him go at the fourth time to the "shire-gemōt," and let the shire appoint him a fourth term. If that then fail, let him take leave either from hence or from thence, that he may seize his own.

Cap. 20. And we will that every free man be brought into a hundred and a tithing... And that every one be brought into a hundred and in "borh"; and let the "borh" hold and lead him to every plea...

Cap. 21. And we will that every man above XII. years make oath that he will neither be a thief nor cognisant of theft.

Cap. 70. This then is the alleviation which it is my will to secure to all the people of that which they before this were too much oppressed with. That then is first; that I command all my reeves that they justly provide on my own, and maintain me therewith; and that no man need give them anything as "feorm-fultum" unless he himself be willing. And if any one after that demand a "wite," let him be liable in his "wer" to the king.

Cap. 71. And if any one depart this life intestate, be it through his neglect, be it through sudden death; then let not the lord draw more from his property than his lawful heriot. And according to his direction, let the property be distributed very justly to the wife and children and relations, to every one according to the degree that belongs to him.

Cap. 72. And let the heriots be as it is fitting to the degree. An elor's such as thereto belongs, that is, eight horses, four saddled and four unsaddled, and four helmets and four coats of mail, and eight spears and as many shields, and four swords and 200 mancuses of gold. And after that, a king's thegn's, of those who are nearest to him; four horses, two saddled and two unsaddled, and two swords and four spears and as many shields, and a helmet and a coat of mail and fifty mancuses of gold. And of the medial thegns, a horse and his trappings and his arms; or his "healsfang" in Wessex; and in Mercia two pounds; and in East Anglia two pounds. And the heriot of a king's thegn among the Danes, who has his soken, four pounds. And if he have further relation to the king, two horses, one saddled and the other unsaddled, and one sword and two spears and two shields and fifty mancuses of gold; and he who is of less means, two pounds.

Cap. 81. And I will that every man be entitled to his hunting in wood and in field, on his own possession. And let every one forego my hunting: take notice where I will have it untrespassed on, under penalty of the full "wite."

Cap. 83. And I will that every man be entitled to "grith" to the "gemōt" and from the "gemōt," except he be a notorious thief.

(*Ancient Laws and Institutes of England*, ed. Thorpe.)

42. Charter of Canute

York Gospel Book

The Charter of Liberties given by Canute should be studied in connection with those later charters which render notable the reigns of Henry I. and John. The even-handed justice assured to all men, both English and Danes, finds a parallel in the laws enforced by William the Conqueror.

Canute, the king, greets his archbishops and his suffragan bishops, and Thurcyl the earl, and all his earls and all his people, twelfhynde and twyhynde, clerk and lay, in England, friendly; and I do you to wit that I will be kind lord and unfailing to God's rights and to right secular law. I took to my remembrance the writing and the word that archbishop Lyfing brought me from Rome from the Pope, that I should

everywhere maintain the glory of God and put down wrong, and work full peace by the might that God would give me. Now I shrank not from my cost while hostility was in hand among you; now I with God's help took away at my cost that of which men told me that it threatened me with more harm than well pleased us; and then went I myself into Denmark, with the men that went with me, from whence most harm came to you; and that have I with God's help taken precautions for that never henceforth should enmity come to you from thence whilst ye men rightly hold, and my life lasteth. Now I thank God Almighty for his help and mercy, that I have so allayed the great harms that threatened us, that we need expect from thence no harm, but to full peace and to deliverance if need be. Now I will that we all reverently thank God Almighty for the mercy that he has done for our help. Now I beseech my archbishops and all my suffragan bishops that they all be attentive about God's right, every one in his district which is committed to him; and also my ealdormen I command that they help the bishops to God's right and to my royal authority and to the behoof of all the people. If any be so bold, clerk or lay, Dane or English, as to go against God's law and against my royal authority, or against secular law, and be unwilling to make amends, and to alter according to my bishop's teaching, then I pray Thurcyl my earl, and also command him, that he bend that unrighteous one to right if he can; if he cannot, then will I with the strength of us both that he destroy him in the land or drive him from out of the land, be he better, be he worse; and also I command all my reeves, by my friendship and by all that they own, and by their own life, that they everywhere hold my people rightly and do judge right judgments by the shire bishop's witness, and do such mercy therein as the shire bishop thinks right, as a man may attain to; and if any harbour a thief, or neglect the pursuit, be he answerable to me as the thief should, unless he can clear himself towards me with full purgation. And I will that all people, clerk and lay, hold fast Edgar's law, which all men have chosen and sworn to at Oxford, for that all the bishops say that it right deeply offends God, that a man break oaths or pledges; and likewise they further teach us that we should with all might and main, alike seek, love, and worship the eternal merciful God, and eschew all unrighteousness: that is, slaying of kinsmen, and murder, and perjury, and witchcraft and enchantment, and adultery, and incest; and also they charge in the name of

God Almighty, and of all his saints, that no man be so bold as to marry a hallowed nun or mynchen; and if any have done so, be he outlaw towards God, and excommunicated from all Christendom, and answerable to the king in all he has, unless he quickly alter and deeply make amends to God; and further still, we admonish that men keep Sunday's festival with all their might, and observe it from Saturday's noon to Monday's dawning; and no man be so bold that he either go to market or seek any court on that holy day; and all men, poor and rich, seek their church, and ask forgiveness for their sins, and keep earnestly every ordained fast, and earnestly honour the saints that the mass priests shall bid us, that we may altogether through the mercy of the everlasting God and the intercession of his saints come to the joy of the kingdom of heaven, and dwell with him who liveth and reigneth for ever without end. Amen.

(Select Charters and other Illustrations of English Constitutional History, from the Earliest Times to the Reign of Edward I., ed. William Stubbs, Oxford, 1870.)

43. Letter of Canute to his People

Florence of Worcester

The letter of Canute to his people after his return from Rome is of great value because of the insight into the king's character given in its quaint phraseology.

Canute, king of all England, and of Denmark, Norway, and part of Sweden, to Ethelnote, metropolitan, and Alfric, archbishop of York, and to all the bishops and prelates, and to the whole nation of the English, both the nobles and the commons, greeting:—

I notify to you that I have lately taken a journey to Rome, to pray for the forgiveness of my sins, and for the welfare of my dominions, and the people under my rule. I had long since vowed this journey to God, but I have been hitherto prevented from accomplishing it by the affairs of my kingdom and other causes of impediment. I now return most humble thanks to my God Almighty for suffering me in my lifetime to visit the sanctuary of his apostles, SS. Peter and Paul, and all others which I could find either within or without the city of Rome, and there in person reverentially worship according to my desire. I have performed this chiefly, because I have learnt from wise men that St. Peter the apostle has received from God great power in binding and in loosing, and carries the keys of the kingdom of heaven; and therefore I esteemed it very profitable to seek his special patronage with the Lord.

Be it known to you that, at the celebration of Easter, a great assembly of nobles was present with our lord, the pope John, and Conrad the emperor; that is to say, all the princes of the nations from Mount Garganus to the neighbouring sea. All these received me with honour and presented me with magnificent gifts; but more especially was I honoured by the emperor with various gifts and valuable presents, both in gold and silver vessels, and in palls and very costly robes. I spoke with the emperor himself, and the lord pope, and the princes who were there, in regard to the wants of my people, English as well as Danes; that there should be granted to them more equal justice and greater security in their journeys to Rome, and that they should not be hindered by so many barriers on the road, nor harassed by unjust tolls. The emperor assented to my demands, as well as king Rodolph, in whose dominions these barriers chiefly stand; and all the princes made edicts that my people, the merchants as well as those who go to pay their devotions, shall pass to and fro in their journeys to Rome in peace, and under the security of just laws, free from all molestation by the guards of barriers or the receivers of tolls. I made further complaint to my lord the pope, and expressed my high displeasure, that my archbishops are sorely aggrieved by the demand of immense sums of money, when, according to custom, they resort to the apostolical see to obtain the pallium; and it is decreed that it should no longer be done. All things, therefore, which I requested for the good of my people from my lord the pope, and the emperor, and king Rodolph, and the other princes through whose territories our road to Rome lies, they have most freely granted, and even ratified their concessions by oath; to which four archbishops, twenty bishops, and an innumerable multitude of dukes and nobles who were there present, are witnesses. Wherefore I return most hearty thanks to Almighty God for my having successfully accomplished all that I had desired, as I had resolved in my mind, and having satisfied my wishes to the fullest extent.

Be it known therefore to all of you, that I have humbly vowed to the Almighty God himself henceforward to amend my life in all respects, and to rule the kingdom and the people subject to me with justice and clemency, giving equitable judgments in all matters; and if, through the intemperance of youth or negligence, I have hitherto exceeded the bounds of justice in any of my acts, I intend by God's aid to make an entire change for the better. I therefore adjure and com-

mand my counsellors to whom I have entrusted the affairs of my kingdom, that henceforth they neither commit themselves, nor suffer to prevail, any sort of injustice throughout my dominions, either from fear of me, or from favour to any powerful person. I also command all sheriffs and magistrates throughout my whole kingdom, as they tender my regard and their own safety, that they use no unjust violence to any man, rich or poor, but that all, high and low, rich or poor, shall enjoy alike impartial law; from which they are never to deviate, either on account of royal favour, respect of person in the great, or for the sake of amassing money wrongfully, for I have no need to accumulate wealth by iniquitous exactions.

I wish you further to know that, returning by the way I went, I am now going to Denmark to conclude a treaty for a solid peace, all the Danes concurring, with those nations and peoples who would have taken my life and crown if it had been possible; but this they were not able to accomplish, God bringing their strength to nought. — May He, of his merciful kindness, uphold me in my sovereignty and honour, and henceforth scatter and bring to nought the power and might of all my adversaries! When, therefore, I shall have made peace with the surrounding nations, and settled and reduced to order all my dominions in the East, so that we shall have nothing to fear from war or hostilities in any quarter, I propose to return to England as early in the summer as I shall be able to fit out my fleet. I have sent this epistle before me in order that my people may be gladdened at my success; because, as you yourselves know, I have never spared, nor will I spare, myself or my exertions, for the needful service of my whole people. I now therefore command and adjure all my bishops and the governors of my kingdom, by the duty they owe to God and myself, to take care that before I come to England all dues belonging to God, according to the old laws, be fully discharged; namely, plough-alms, the tythe of animals born in the current year, and the pence payable to St. Peter at Rome, whether from towns or vills; and in the middle of August the tythes of corn; and at the feast of St. Martin the first-fruits of grain [payable] to every one's parish church, called in English *ciric-sceat*. If these and such-like dues be not paid before I come, those who make default will incur fines to the king, according to the law, which will be strictly enforced without mercy. Farewell.

PART III

FROM THE CONQUEST TO THE
CHARTER

(1066-1215)



CHAPTER VII

THE NORMAN RULE

44. Invasion of England by Harold Hardrada and Tostig — Invasion by William, Duke of Normandy — Battle of Stamford Bridge — Battle of Hastings

Ordericus Vitalis

No good contemporary account of the invasion of the Normans exists. The writers of the succeeding century are quite as unsatisfactory as their predecessors. The account by ORDERICUS VITALIS (1075 to *circa* 1143) which is given below, though erroneous in many particulars, presents the most vivid description of the fall of Harold which remains to us. Vitalis was an Englishman, born on the banks of the Severn. His life was spent in the study of history, in collecting historical materials, and in writing his *Ecclesiastical History of England and Normandy*. Though it is marred by inaccuracies, it is valuable as a source of the history of the Norman Period.

In the month of August, Harold, king of Norway, and Tostig, with a powerful fleet set sail over the wide sea, and, steering for England with a favourable aparcitic, or north wind, landed in Yorkshire, which was the first object of their invasion. Meanwhile, Harold of England, having intelligence of the descent of the Norwegians, withdrew his ships and troops from Hastings and Pevensey, and the other sea-ports on the coast lying opposite to Neustria, which he had carefully guarded with a powerful armament during the whole of the year, and threw himself unexpectedly, with a strong force by hasty marches on his enemies from the north. A hard-fought battle ensued, in which there was great effusion of blood on both sides, vast numbers being slain with brutal rage. At last the furious attacks of the English secured them the victory, and the king of Norway as well as Tostig, with their whole army, were slain. The field of battle may be easily discovered by travellers, as great heaps of the bones of the slain lie there to this day, memorials of the prodigious numbers which fell on both sides.

While however the attention of the English was diverted by the invasion of Yorkshire, and by God's permission they neglected, as I have already mentioned, to guard the coast, the Norman fleet, which for a whole month had been waiting for a south wind in the mouth of the river Dive and the neighbouring harbours, took advantage of a favourable breeze from the west to gain the roads of St. Valeri. While it lay there innumerable vows and prayers were offered for the safety of themselves and their friends, and floods of tears were shed. For the intimate friends and relations of those who were to remain at home, witnessing the embarkation of fifty thousand knights and men-at-arms, with a large body of infantry, who had to brave the dangers of the sea, and to attack an unknown people on their own soil, were moved to tears and sighs, and full of anxiety both for themselves and their countrymen, their minds fluctuating between fear and hope. Duke William and the whole army committed themselves to God's protection, with prayers, and offerings, and vows, and accompanied a procession from the church, carrying the relics of St. Valeri, confessor of Christ, to obtain a favorable wind. At last when by God's grace it suddenly came round to the quarter which was the object of so many prayers, the duke, full of ardour, lost no time in embarking the troops, and giving the signal for hastening the departure of the fleet. The Norman expedition, therefore, crossed the sea on the night of the third of the calends of October [29th September], which the Catholic Church observes as the feast of St. Michael the archangel, and meeting with no resistance, and landing safely on the coast of England, took possession of Pevensey and Hastings, the defence of which was entrusted to a chosen body of soldiers, to cover a retreat and guard the fleet.

Meanwhile the English usurper, after having put to the sword his brother Tostig, and his royal enemy, and slaughtered their immense army, returned in triumph to London. As however worldly prosperity soon vanishes like smoke before the wind, Harold's rejoicings for his bloody victory were soon darkened by the threatening clouds of a still heavier storm. Nor was he suffered long to enjoy the security procured by his brother's death; for a hasty messenger brought him the intelligence that the Normans had embarked. Learning soon afterwards that they had actually landed, he made preparations for a fresh conflict. For his intrepidity was dauntless, and his conduct of affairs admirable, while

his personal strength was great, his presence commanding, and he had the arts of a persuasive eloquence, and of a courtesy which endeared him to his supporters. Still his mother Githa, who was much afflicted by the death of her son Tostig, and his other faithful friends, dissuaded him from engaging in battle with the Normans; his brother, Earl Gurth, thus addressing him: "It is best, dearest brother and lord, that your courage should be tempered by discretion. You are worn by the conflict with the Norwegians from which you are only just come, and you are in eager haste to give battle to the Normans. Allow yourself, I pray you, some time for rest. Reflect also, in your wisdom, on the oath you have taken to the duke of Normandy. Beware of incurring the guilt of perjury, lest by so great a crime you draw ruin on yourself and the forces of this nation, and stain forever the honour of our own race. For myself, I am bound by no oaths, I am under no obligations to Count William. I am therefore in a position to fight with him undauntedly in defence of our native soil. But do you, my brother, rest awhile in peace, and wait the issue of the contest, so that the liberty which is the glory of England, may not be ruined by your fall."

Harold was very indignant at this speech. Holding in contempt the wholesome advice of his friends, he loaded his brother with reproaches for his faithful counsel, and even forgot himself so far as to kick his mother when she hung about him in her too great anxiety to detain him with her. For six days Harold sent forth the summons to call the people to arms from all quarters, and having assembled vast numbers of the English, he led them by forced marches against the enemy. It was his design to take them unawares, and crush them at once by a night attack, or, at least, by a sudden onset, and, that they might not escape by sea, he caused a fleet of seventy ships, full of soldiers, to guard the coast. Duke William, having intelligence of Harold's approach, ordered his troops to take to their arms on the morning of Saturday. He then heard mass, strengthening both body and soul by partaking of the consecrated host; he also reverently suspended from his neck the holy relics on which Harold had sworn. Many of the clergy had followed the Norman army, among who were two bishops, Odo, of Bayeux, and Geoffrey, of Coutances, with attendant clerks and monks, whose duty it was to aid the war with their prayers and counsels. The battle commenced at the third

hour of the Ides [14th] of October, and was fought desperately the whole day, with the loss of many thousand men on both sides. The Norman duke drew up his light troops, consisting of archers and men armed with cross-bows, in the first line; the infantry in armour formed the second rank; and in the third were placed the cavalry, in the centre of which the duke stationed himself with the flower of his troops, so as to be able to issue his commands, and give support to every part of the army.

On the other side, the English troops, assembled from all parts of the neighborhood, took post at a place which was anciently called Senlac, many of them personally devoted to the cause of Harold, and all to that of their country, which they were resolved to defend against the foreigners. Dismounting from their horses, on which it was determined not to rely, they formed a solid column of infantry, and thus stood firm in the position they had taken.

Turstin, son of Rollo, bore the standard of Normandy. The sound of the trumpets in both armies was the terrible signal for beginning the battle. The Normans made the first attack with ardour and gallantry, their infantry rushing forward to provoke the English, and spreading wounds and death through their ranks by showers of arrows and bolts. The English, on their side, made a stout resistance, each man straining his powers to the utmost. The battle raged for some time with the utmost violence between both parties. At length the indomitable bravery of the English threw the Bretons, both horse and foot, and the other auxiliary troops composing the left wing, into confusion, and, in their rout, they drew with them almost all the rest of the duke's army, who, in their panic, believed that he was slain. The duke, perceiving that large bodies from the enemy had broken their ranks in pursuit of his flying troops, rode up to the fugitives and checked their retreat, loudly threatening them, and striking with his lance. Taking off his helmet, and exposing his naked head, he shouted: "See, I am here; I am still living, and, by God's help, shall yet have the victory." Suddenly the courage of the fugitives was restored by these bold words of the duke; and, intercepting some thousands of their pursuers, they cut them down in a moment. In this manner, the Normans, twice again pretending to retreat, and when they were followed by the English, suddenly wheeling their horses, cut their pursuers off from the main body, surrounded and slew them. The ranks of the English were

much thinned by these dangerous feints, through which they fell separated from each other; so that, when thousands were thus slaughtered, the Normans attacked the survivors with still greater vigour. They were charged home by the troops of Maine, France, Brittany, and Aquitaine, and great numbers of them miserably perished.

Among others present at this battle, were Eustace, Count de Boulogne, William, son of Richard, Count d'Evreux, Geoffrey, son of Robert, Count de Mortagne, William Fitz-Osbern, Robert, son of Robert de Beaumont, a novice in arms, Aimer, Viscount de Thouars, Earl Hugh, the constable, Walter Giffard, and Ralph Toni, Hugh de Grantmesnil, and William de Warrenne, with many other knights illustrious for their military achievements, and whose names merit a record in the annals of history amongst the most famous warriors. Duke William surpassed them all in courage and conduct; for he nobly performed the duties of a general, staying the flight of his troops, re-animating their courage, their comrade in the greatest dangers, and more frequently calling on them to follow where he led, than commanding them to advance before him. He had three horses killed under him in the battle; thrice he remounted, and did not suffer his steeds to be long unavenged. Shields, helmets, and coats of mail were shivered by the furious and impatient thrusts of his sword; some he dashed to the earth with his shield, and was at all times as ready to cover and protect his friends, as to deal death among his foes.

Although the battle was fought with the greatest fury from nine o'clock in the morning, King Harold was slain in the first onset, and his brother Earl Leofwin fell some time afterwards, with many thousands of the royal army. Towards evening, the English finding that their king and the chief nobles of the realm, with a great part of their army, had fallen, while the Normans still showed a bold front, and made desperate attacks on all who made any resistance, they had recourse to flight as expeditiously as they could. Various were the fortunes which attended their retreat; some recovering their horses, some on foot, attempted to escape by the highways; more sought to save themselves by striking across the country. The Normans, finding the English completely routed, pursued them vigorously all Sunday night, but not without suffering a great loss; for, galloping onward in hot pursuit, they fell unawares, horses and armour, into an ancient trench, overgrown and concealed by rank grass,

and men in their armour and horses rolling over each other, were crushed and smothered. This accident restored confidence to the routed English, for, perceiving the advantage given them by the mouldering rampart and a succession of ditches, they rallied in a body, and, making a sudden stand, caused the Normans severe loss. At this place Eugenulf, lord of Laigle, and many others fell, the number of Normans who perished being, as reported by some who were present, nearly fifteen thousand. Thus did Almighty God, on the eve of the Ides of October, punish in various ways the innumerable sinners in both armies. For, on this Saturday, the Normans butchered with remorseless cruelty thousands of the English, who long before had murdered the innocent prince Alfred and his attendants; and on the Saturday before the present battle, had massacred without pity King Harold and Earl Tostig, with multitudes of Norwegians. The righteous Judge avenged the English on Sunday night, when the furious Normans were precipitated into the concealed trench; for they had broken the divine law by their boundless covetousness; and, as the Psalmist says: "Their feet were swift to shed blood," whereupon, "sorrow and unhappiness was in their ways."

Duke William, perceiving that the English troops suddenly rallied, did not halt; and when he found Count Eustace with fifty men-at-arms retreating, and the count wished him to have the signal sounded for recalling the pursuers, he commanded him with a loud voice to stand firm. The count, however, familiarly approaching the duke, whispered in his ear that it would be safer to retreat, predicting his sudden death if he persisted in the pursuit. While he was saying this, Eustace received a blow between the shoulders, so violent that the noise of the stroke was plainly heard, and it caused blood to flow from his mouth and nostrils, and he was borne off by his comrades in a dying state.

The victory being secured, the duke returned to the field of battle, where he viewed the dreadful carnage, which could not be seen without commiseration. There the flower of the youth and nobility of England covered the ground far and near stained with blood. Harold could not be discovered by his features, but was recognized by other tokens, and his corpse, being borne to the duke's camp, was, by order of the conqueror, delivered to William Mallet for interment near the sea-shore, which had long been guarded by his arms.

(The Ecclesiastical History of England and Normandy, by Ordericus Vitalis. Trans. T. Forester, London, 1853, book III, c. 14.)

45. Coronation Oath of William the Conqueror*Florence of Worcester*

The coronation oaths of the sovereigns of England have been of varying force. In that of William the Norman is expressed in a few strong words all that other rulers promised with more of detail. See also Nos. 89, 148.

Having first, as the archbishop required, sworn before the altar of St. Peter the Apostle, in the presence of the clergy and people, to protect the holy churches of God and their governors, and to rule the whole nation subject to him with justice and kingly providence; to make and maintain just laws and straitly to forbid every sort of rapine, violence and all unrighteous judgments.

(Chronicle of Florence of Worcester. ed. cited.

46. The Administration of William*Ordericus Vitalis*

The administration of William the Norman has been the object of varied criticism. Perhaps the best contemporary view can be found in the following excerpt from ORDERICUS VITALIS.

After his coronation in London, King William ordered many affairs with prudence, justice, and clemency. Some of these concerned the profit and honour of that city, others were for the advantage of the whole nation, and the rest were intended for the benefit of the church. He enacted some laws founded on admirable principles. No suitor ever demanded justice of this king without obtaining it: he condemned none but those whom it would have been unjust to acquit. He enjoined his nobles to comport themselves with grave dignity, joining activity to right judgment, having constantly before their eyes the Eternal King who had given them the victory. He forbade their oppressing the conquered, reminding them that they were their own equals by their Christian profession, and that they must be cautious not to excite revolt by their unjust treatment of those whom they had fairly subdued. He prohibited all riotous assemblages, murder, and robbery, and as he restrained the people by force of arms, he set bounds to arms by the laws. The taxes and all things concerning the royal revenues were so regulated as not to be burdensome to the people. Robbers, plunderers, and malefactors had no asylum in his dominions. Merchants found the ports and highways open, and were protected against injury. Thus the first acts of his reign were all excellent, and eminent for the great benefits flowing from

good government conferred on his subjects, which were confirmed by perseverance in a right course, with plain indications of a successful result.

(*Ordericus Vitalis*, ed. cited, book IV, c. 1.)

47. The Character of William

Anglo-Saxon Chronicle

William of Normandy was of a character too subtle to be readily comprehended. The estimate in the *Anglo-Saxon Chronicle* is rather laudatory, but does not scruple to call attention to the misdeeds of the Conqueror.

A. 1087. . . . If any would know what manner of man king William was, the glory that he obtained, and of how many lands he was lord; then will we describe him as we have known him, we, who have looked upon him, and who once lived in his court. This king William, of whom we are speaking, was a very wise and a great man, and more honoured and more powerful than any of his predecessors. He was mild to those good men who loved God, but severe beyond measure towards those who withstood his will. He founded a noble monastery on the spot where God permitted him to conquer England, and he established monks in it, and he made it very rich. In his days the great monastery at Canterbury was built, and many others also throughout England; moreover this land was filled with monks who lived after the rule of St. Benedict; and such was the state of religion in his days that all that would, might observe that which was prescribed by their respective orders. King William was also held in much reverence: he wore his crown three times every year when he was in England: at Easter he wore it at Winchester, at Pentecost at Westminster, and at Christmas at Gloucester. And at these times, all the men of England were with him, archbishops, bishops, abbats, and earls, thanes, and knights. So also, was he a very stern and a wrathful man, so that none durst do anything against his will, and he kept in prison those earls who acted against his pleasure. He removed bishops from their sees, and abbats from their offices, and he imprisoned thanes, and at length he spared not his own brother Odo. This Odo was a very powerful bishop in Normandy, his see was that of Bayeux, and he was foremost to serve the king. He had an earldom in England, and when William was in Normandy he was the first man in this country, and him did he cast into prison. Amongst other things the good order that William estab-

lished is not to be forgotten; it was such that any man, who was himself aught, might travel over the kingdom with a bosom-full of gold unmolested; and no man durst kill another, however great the injury he might have received from him. He reigned over England, and being sharp-sighted to his own interest, he surveyed the kingdom so thoroughly that there was not a single hide of land throughout the whole, of which he knew not the possessor, and how much it was worth, and this he afterwards entered in his register. The land of the Britons was under his sway, and he built castles therein; moreover he had full dominion over the Isle of Man [Anglesey]: Scotland also was subject to him from his great strength; the land of Normandy was his by inheritance, and he possessed the earldom of Maine; and had he lived two years longer he would have subdued Ireland by his prowess, and that without a battle. Truly there was much trouble in these times, and very great distress; he caused castles to be built, and oppressed the poor. The king was also of great sternness, and he took from his subjects many marks of gold, and many hundred pounds of silver, and this, either with or without right, and with little need. He was given to avarice, and greedily loved gain. He made large forests for the deer, and enacted laws therewith, so that whoever killed a hart or a hind should be blinded. As he forbade killing the deer, so also the boars; and he loved the tall stags as if he were their father. He also appointed concerning the hares, that they should go free. The rich complained and the poor murmured, but he was so sturdy that he recked nought of them; they must will all that the king willed, if they would live; or would keep their lands; or would hold their possessions; or would be maintained in their rights. Alas! that any man should so exalt himself, and carry himself in his pride over all! May Almighty God show mercy to his soul, and grant him the forgiveness of his sins! We have written concerning him these things, both good and bad, that virtuous men might follow after the good, and wholly avoid the evil, and might go in the way that leadeth to the kingdom of heaven.

(Anglo-Saxon Chronicle for year 1087, ed. cited.)

48. Domesday Survey

Anglo-Saxon Chronicle

The years 1085 and 1086 were of great constitutional and political importance to England. In the first, the Domesday survey was made. In the second, the Gemot of Salisbury was held.

The survey was the greatest fiscal work England had ever known, nor did she for several centuries know another of equal importance. The survey furnished the basis of taxation and military service, as well as that for the establishment and maintenance of the English feudal system. The utility of the return was established at the national gathering, or Gemot, on Salisbury Plain. There William exacted from every landholder oaths of homage, fealty, and allegiance, binding each man directly to the king instead of to the mesne lord — the great difference between English and Continental feudalism.

A. 1085. ...At midwinter the king was at Gloucester with his witan; and he held his court there five days; and afterwards the archbishop and clergy held a synod during three days; and Maurice was there chosen to the bishopric of London, William to that of Norfolk, and Robert to that of Cheshire; they were all clerks of the king. After this the king had a great consultation, and spoke very deeply with his witan concerning this land, how it was held and what were its tenantry. He then sent his men over all England, into every shire, and caused them to ascertain how many hundred hides of land it contained, and what lands the king possessed therein, what cattle there were in the several counties, and how much revenue he ought to receive yearly from each. He also caused them to write down how much land belonged to his archbishops, to his bishops, his abbats, and his earls, and, that I may be brief, what property every inhabitant of all England possessed in land or in cattle, and how much money this was worth. So very narrowly did he cause the survey to be made, that there was not a single hide nor a rood of land, nor — it is shameful to relate that which he thought no shame to do — was there an ox, or a cow, or a pig passed by, and that was not set down in the accounts, and then all these writings were brought to him.

A. 1086. This year the king wore his crown and held his court at Winchester at Easter, and he so journeyed forward that he was at Westminster during Pentecost, and there he dubbed his son Henry a knight. And afterwards he travelled about, so that he came to Salisbury at Lammas; and his witan, and all the land-holders of substance in England, whose vassals soever they were, repaired to him there, and they all submitted to him, and became his men, and swore oaths of allegiance, that they would be faithful to him against all others.

49. A Domesday Manor: Hecham, Essex, A.D. 1086

Domesday Book

Many extracts from *Domesday Book* would no better serve our purpose than does this single one. Herein we can see the method of the examiners in ascertaining the extent of a manor. The purpose was to give the state of the manor as well as an enumeration and valuation of the property as it existed in the days of both Edward and William.

Peter de Valence holds in domain Hecham, which Haldane a freeman held in the time of King Edward, as a manor, and as 5 hides. There have always been 2 ploughs in the demesne, 4 ploughs of the men. At that time there were 8 villeins, now 10; then there were 2 bordars, now 3; at both times 4 *servi*, woods for 300 swine, 18 acres of meadow. Then there were 2 fish ponds and a half, now there are none. At that time there was 1 ox, now there are 15 cattle and 1 small horse and 18 swine and 2 hives of bees. At that time it was worth 60s., now £4 10s. When he received this manor he found only 1 ox and 1 planted acre. Of those 5 hides spoken of above, one was held in the time of King Edward by 2 freemen, and was added to this manor in the time of King William. It was worth in the time of King Edward 10s., now 22s., and William holds this from Peter de Valence.

(Domesday Book, II, 78b.)

50. William I to Gregory VII

William I

The following letter from the Conqueror to the Pope presents better than any other single document the relation of the English Church to the Papal See in the eleventh century. The King does not deny the rightfulness of the ecclesiastical tax, for he believed this to be due from all Christians. He, however, positively repudiates the theory that England was a fief of Rome, and sharply checks the interference of Rome in the civil affairs of his kingdom. In this connection, see also No. 51.

To Gregory, the most noble Shepherd of the Holy Church, William, by the grace of God renowned king of the English, and duke of the Normans, greeting with amity. Hubert, your legate, Holy Father, coming to me in your behalf, bade me to do fealty to you and your successors, and to think better in the manner of the money which my predecessors were wont to send to the Roman Church: the one point I agreed to, the other I did not agree to. I refused to do fealty, nor will I, because neither have I promised it, nor do I find that my predecessors did it to your predecessors.

The money for nearly three years, whilst I was in Gaul, has been carelessly collected; but now that I am come back to my kingdom, by God's mercy, what has been collected is sent by the aforesaid legate, and what remains shall be dispatched when opportunity serves, by the legate of Lanfranc, our faithful archbishop. Pray for us, and for the good estate of our realm, for we have loved your predecessors and desire to love you sincerely, and to hear you obediently before all.

(*Original Letters Illustrative of English History*,
ed. H. Ellis, London, 1846.)

51. Royal Supremacy

Eadmer

William I. was firm in his determination to prevent the encroachment of ecclesiastical authority upon the civil administration. The following selection not only illustrates this principle, but shows the independence of the English State as to papal control. This independence was not seriously questioned by the popes as long as a strong king ruled in the island realm.

Eadmer says: "Some of those novel points I will set down which he [William] appointed to be observed...

1. He would not then allow any one settled in all his dominion to acknowledge as apostolic the pontiff of the City of Rome, save at his own bidding, or by any means to receive any letter from him if it had not first been shown to himself.

2. The primate also of his realm, I mean the Archbishop of Canterbury or Dorobernia, presiding over a general Council assembled of bishops, he did not permit to ordain or forbid anything save what had first been ordained by himself as agreeable to his own will.

3. He would not suffer that any, even of his bishops, should be allowed to implead publicly, or excommunicate, or constrain by any penalty of ecclesiastical rigour, any of his barons or ministers accused of incest, or adultery, or any capital crime, save by his command.

(*Eadmeri Monachi Cantuariensis Historiæ Novorum*... I, 6, Lond. 1623.)

52. Separation of Spiritual and Lay Jurisdiction

Ancient Laws and Institutes of England

The greatest legal change resulting from the Conquest was the separation of the civil and ecclesiastical courts of law. An end was put to the practice of churchmen sitting as judges in the civil courts, as well as to the administration by the laity of ecclesiastical affairs. The result of the law was to strengthen the power of the ecclesiastical courts.

William, by the grace of God king of the English, to R. Bainard, and G. de Magneville, and Peter de Valoines, and all my liege men of Essex, Hertfordshire and Middlesex greeting. Know ye and all my liege men resident in England, that I have by common council, and by the advise of the archbishops, bishops, abbots and chief men of my realm, determined that the episcopal laws be mended as not having been kept properly nor according to the decrees of the sacred canons throughout the realm of England, even to my own times. Accordingly I command and charge you by royal authority that no bishop nor archdeacon do hereafter hold pleas of episcopal laws in the Hundred, nor bring a cause to the judgment of secular men which concerns the rule of souls. But whoever shall be impleaded by the episcopal laws for any cause or crime, let him come to the place which the bishop shall choose and name for this purpose, and there answer for his cause or crime, and not according to the Hundred but according to the canons and episcopal laws, and let him do right to God and his bishop. But if any one, being lifted up with pride, refuse to come to the bishop's court, let him be summoned three several times, and if by this means, even, he come not to obedience, let the authority and justice of the king or sheriff be exerted; and he who refuses to come to the bishop's judgment shall make good the bishop's law for every summons. This too I absolutely forbid that any sheriff, reeve, or king's minister, or any other layman, do in any wise concern himself with the laws which belong to the bishop, or bring another man to judgment save in the bishop's court. And let judgment be nowhere undergone but in the bishop's see or in that place which the bishop appoints for this purpose.

(Ancient Laws and Institutes of England, I, 213.)

53. First Charter of the City of London

Historical Charters

This, the first charter granted to the City of London, although of great brevity, is of importance because of its recognition of the rights possessed by the citizens of that place.

William the king friendly salutes William the bishop, and Godfrey the portreve, and all the burgesses within London, both French and English: And I declare, that I grant you to be all law-worthy, as you were in the days of King Edward; and I grant that every child shall be his father's

heir, after his father's days; and I will not suffer any person to do you wrong. God keep you.

(*Historical Charters and Constitutional Documents of the City of London*,
p. 1. Lond. 1884.)

54. Exactions of William Rufas

Ordericus Vitalis

The striking contrast between the administration of William the Conqueror and that of his son, William Rufas, is clearly shown in the following quotation from the contemporary chronicler ORDERICUS VITALIS.

While these events were occurring in Normandy, beyond sea, and enormous sums were prodigally spent in useless armaments, Ranulph Flambard, now made bishop of Durham, and the other minions and officers of the king, were robbing England, and, worse than thieves, pillaged without mercy the granaries of the farmers and the stores of the merchants, not even restraining their bloody hands from plundering the church. On the death of the prelates, they immediately intruded themselves into their places by a violent exercise of the royal authority, and seized without decency whatever they found in their treasuries. They took into the king's hands the domains of the monasteries and the revenues of the bishoprics, and exacted from the abbots or bishops who still survived enormous sums of money. Thus amassing, by fair means or foul, an immense amount of contributions, they remitted it to the king beyond sea, to be employed on his own occasions whether good or bad. Vast sums, accumulated by these taxes, were presented to the king who used them ostentatiously to enrich foreigners. But the native inhabitants, unjustly spoiled of their goods, were in great distress and cried lamentably to God, who delivered Israel from the hand of Moab, when Eglon the corpulent king was slain by Aoth, the left-handed.

(*Ordericus Vitalis*, book X, c. 8, ed. cited.)

55. The Charter of Liberties of Henry I.

Ancient Laws and Institutes of England

William Rufas was succeeded by Henry, the third son of William the Conqueror. Henry's first public act was to issue a charter of liberties. This important charter was not only of great value to Henry's subjects, but a century later it was to form the basis of the demands which led King John to grant the Magna Charta (No. 80). The two documents should be studied together.

In the year of the incarnation of the Lord, 1101, Henry, son of King William, after the death of his brother William, by the grace of God, king of the English, to all faithful, greeting:

1. Know that by the mercy of God, and by the common counsel of the barons of the whole kingdom of England, I have been crowned king of the same kingdom; and because the kingdom has been oppressed by unjust exactions, I, from regard to God, and from the love which I have toward you, in the first place make the holy church of God free, so that I will neither sell nor place at rent, nor, when archbishop, or bishop, or abbot is dead, will I take anything from the domain of the church, or from its men, until a successor is installed into it. And all the evil customs by which the realm of England was unjustly oppressed will I take away, which evil customs I partly set down here.

2. If any one of my barons, or earls, or others who hold from me shall have died, his heir shall not redeem his land as he did in the time of my brother, but shall relieve it by a just and legitimate relief. Similarly also the men of my barons shall relieve their lands from their lords by a just and legitimate relief.

3. And if any one of the barons or other men of mine wishes to give his daughter in marriage, or his sister or niece or relation, he must speak with me about it, but I will neither take anything from him for this permission, nor forbid him to give her in marriage, unless he should wish to join her to my enemy. And if when a baron or other man of mine is dead, a daughter remains as his heir, I will give her in marriage according to the judgment of my barons, along with her land. And if when a man is dead his wife remains, and is without children, she shall have her dowry and right of marriage, and I will not give her to a husband except to her will.

4. And if a wife has survived with children, she shall have her dowry and right of marriage, so long as she shall have kept her body legitimately, and I will not give her in marriage, except according to her will. And the guardian of the land and children shall be either the wife or another one of the relatives as shall seem to be most just. And I require that my barons should deal similarly with the sons and daughters or wives of their men.

5. The common tax on money which used to be taken through the cities and counties, which was not taken in the

time of King Edward, I now forbid altogether henceforth to be taken. If any one shall have been seized, whether a moneyer or any other, with false money, strict justice shall be done for it.

6. All fines and all debts which were owed to my brother, I remit, except my rightful rents, and except those payments which had been agreed upon for the inheritances of others or for those things which more justly affected others. And if any one for his own inheritance has stipulated anything, this I remit, and all reliefs which had been agreed upon for rightful inheritances.

7. And if any one of my barons or men shall become feeble, however he himself shall give or arrange to give his money, I grant that it shall be so given. Moreover, if he himself, prevented by arms, or by weakness, shall not have bestowed his money, or arranged to bestow it, his wife or his children or his parents, and his legitimate men shall divide it for his soul, as to them shall seem best.

8. If any of my barons or men shall have committed an offence he shall not give security to the extent of forfeiture of his money, as he did in the time of my father, or of my brother, but according to the measure of the offence so shall he pay, as he would have paid from the time of my father backward, in the time of my other predecessors; so that if he shall have been convicted of treachery or of crime, he shall pay as is just.

9. All murders moreover before that day in which I was crowned king, I pardon; and those which shall be done henceforth shall be punished justly according to the law of King Edward.

10. The forests, by the common agreement of my barons, I have retained in my own hand, as my father held them.

11. To those knights who hold their land by the cuirass, I yield of my own gift the lands of their demesne ploughs free from all payments and from all labor, so that as they have thus been favoured by such a great alleviation, so they may readily provide themselves with horses and arms for my service and for the defence of my kingdom.

12. A firm peace in my whole kingdom I establish and require to be kept from henceforth.

13. The law of King Edward I give to you again with those changes with which my father changed it by the counsel of his barons.

14. If any one has taken anything from my possessions

since the death of King William, my brother, or from the possessions of any one, let the whole be immediately returned without alteration, and if any one shall have retained anything thence, he upon whom it is found will pay it heavily to me. Witnesses Maurice, bishop of London, and Gundulf, bishop, and William, bishop-elect, and Henry, earl, and Simon, earl, and Walter Giffard, and Robert de Montfort, and Roger Bigod, and Henry de Port, at London, when I was crowned.

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56. Charter of the City of London

(FROM HENRY I.)

Historical Charters

The City of London was the recipient of many charters, the first being that granted by William I. (No. 53). That granted by Henry I. is, however, the first in which is given an account of the municipal government. A comparative study of these charters is of great value to those interested in municipal development.

Henry, by the grace of God, king of England, to the archbishop of Canterbury, and to the bishops and abbots, earls and barons, justices and sheriffs, and to all his faithful subjects of England, French and English, greeting.

Know ye that I have granted to my citizens of London, to hold Middlesex to farm for three hundred pounds, upon accompt to them and their heirs; so that the said citizens shall place as sheriff whom they will of themselves; and shall place whomsoever, or such a one as they will of themselves, for keeping of the pleas of the crown, and of the pleadings of the same, and none other shall be justice over the same men of London; and the citizens of London shall not plead without the walls of London for any plea. And be they free from scot and lot and danegeld, and of all murder; and none of them shall wage battle. And if any one of the citizens shall be impleaded concerning the pleas of the crown, the man of London shall discharge himself by his oath, which shall be adjudged within the city; and none shall lodge within the walls, neither of my household, nor any other, nor lodging delivered by force.

And all the men of London shall be quit and free, and all their goods, throughout England, and the ports of the sea, of and from all toll and passage and lestage, and all other customs; and the churches and barons and citizens

shall and may peaceably and quietly have and hold their sokes with all their customs; so that the strangers that shall be lodged in the sokes shall give custom to none but to him to whom the soke appertains, or to his officer, whom he shall there put: And a man of London shall not be adjudged in amerciements of money but of one hundred shillings (I speak of the pleas which appertain to money); and further there shall be no more miskenning in the hustings, nor in the folkmote, nor in other pleas within the city; and the hustings may sit once in a week, that is to say, on Monday: And I will cause my citizens to have their lands, promises, bonds, and debts, within the city and without; and I will do them right by the law of the city, of the lands of which they shall complain to me:

And if any shall take toll or custom of any citizen of London, the citizens of London in the city shall take of the borough or town, where toll or custom was so taken, so much as the man of London gave for toll, and as he received damage thereby: And all debtors, which do owe debts to the citizens of London, shall pay them in London, or else discharge themselves in London, that they owe none; but if they will not pay the same, neither come to clear themselves that they owe none, the citizens of London, to whom the debts shall be due, may take their goods in the city of London, of the borough or town, or of the county wherein he remains who shall owe the debt: And the citizens of London may have their chaces to hunt, as well and fully as their ancestors have had, that is to say, in Chiltre, and in Middlesex and Surrey.

Witness the bishop of Winchester, and Robert son of Richier, and Hugh Bygot, and Alured of Toteneys, and William of Alba-spina and Hubert the king's Chamberlain, and William de Montfichet, and Hangulf de Taney, and John Bellet, and Robert son of Siward. At Westminster.

(The Historical Charters and Constitutional Documents of the City of London, p. 3. Ed. cit.)

57. The Investiture Controversy

Eadmer

The policy of the Church forbade its ecclesiastics to receive investiture from a layman, even though he were a king. It also forbade churchmen to render homage to laymen. Anselm, Archbishop of Canterbury, contested these points with Henry I.; the result was the compromise set forth in the selection which follows,

On the first of August an assembly of bishops, abbots, and nobles of the realm was held at London in the king's palace. And for three successive days, in Anselm's absence, the matter was thoroughly discussed between king and bishops concerning church investitures, some arguing for this that the king should perform them after the manner of his father and brother, or according to the injunction and obedience of the pope. For the pope in the sentence which had been then published, standing firm, had conceded homage, which Pope Urban had forbidden, as well as investiture, and in this way had won over the king about investiture, as may be gathered from the letter which we have quoted above. Afterwards, in the presence of Anselm and a large concourse, the king agreed and ordained that henceforward no one should be invested with bishopric or abbacy in England by the giving of a pastoral staff or the ring, by the king or any lay hand: Anselm also agreeing that no one elected to a prelacy should be deprived of consecration to the office undertaken on the ground of homage, which he should make to the king. After this decision, by the advise of Anselm and the nobles of the realm, fathers were instituted by the king, without any investiture of pastoral staff or ring, to nearly all the churches of England which had been so long widowed of their shepherds.

(*Eadmeri Monachi Cantuariensis Historiæ Novorum*, ed. cited.)

CHAPTER VIII

THE EARLY ANGEVINS

58. Henry II and Thomas à Becket at the Council of Woodstock

(July 1163)

Edward Grim

The reign of the strong king, Henry II., was marred by his quarrel with Thomas à Becket. The assassination of the archbishop has tended to obscure in the mind of the younger student of history the principles which were at stake in the quarrel. As chancellor, Thomas was the king's servant, but when created archbishop he became the servant of the Church, and as such he resisted the encroachments of the Crown upon what he believed to be the ecclesiastical prerogative. The first issue with the king came in 1163 at the Council of Woodstock, upon a matter of taxation; the second at the Council of Westminster in the same year, upon the question of the rights of civil courts to try ecclesiastical persons. The dissension was partly healed, and at the Council of Clarendon the compromise effected between Church and State was embodied in the Constitutions of Clarendon. But the dispute again broke out, and Becket fled from England. For years the struggle between ruler and prelate continued. In 1170 a reconciliation was effected, but only to be succeeded by more bitter strife. Some rash words of the king led to the murder of the archbishop. The sincerity of Henry's remorse may well be doubted. In consequence of the murder Henry was forced to submit himself to the pope.

When the king was tarrying on his manor at Woodstock, with the archbishop and the great men of the land, among other matters a question was raised concerning a certain custom which obtained in England. Two shillings from each hide were given to the king's servants, who, in the post of sheriffs, guarded the shires. This sum the king wished to have enrolled in the treasury and added to his own revenue. Whom the archbishop resisted to the face, saying that it ought not to be exacted as revenue — "Nor will we," said he, "my lord king, give it as revenue, saving your pleasure; but if the sheriffs, and servants, and ministers of the shires shall

serve us fitly, and maintain and defend our dependants, in no way will we be behindhand in contributing to their aid." But the king, taking ill this answer of the archbishop, said "By the eyes of God, it shall be given as revenue, and in the king's scroll shall it be writ; nor is it fit that thou shouldst gainsay, when no man would oppose your men against your will." The archbishop foreseeing and being aware lest by his sufferance a custom should be brought in whereby posterity should be harmed, answered, "By the reverence of the eyes by which you have sworn, my lord king, there shall be given from all my land or from the right of the Church not a penny." The king was silent, repulsed by the bold objection of the archbishop, but his indignation was not set at rest; for silently erewhile his fury from secular matters which seemed to be but little contrary to the archbishop, turned against the clergy, and his rage extended against the ministers of the church whose injuries specially redounded against the archbishop.

(Edward Grim, *Materials for the History of Archbishop Becket*. From *St. Thomas of Canterbury*, ed. W. H. Hutton, London, 1889. p. 36.)

59. The Council of Westminster

(Oct. 1163)

Herbert of Bosham

The king when he explained the cause of the summons straightway demanded that clerks seized or convicted of great crimes should be deprived of the guardianship of the church and handed over to his officers, declaring that they would be the more prompt to evil unless after spiritual punishment they were subject to corporal penalty, and that those who were not restrained by the memory of their orders from such enormities would care little for the loss of orders: and that the more worthy they were than other persons of the privilege of clergy so much the worse was their guilt; and hence they should be constrained by greater punishments whenever they were discovered in crime. Accordingly the king, advised by certain who made a boast of their learning in either law, straitly demanded that such persons should be deprived of their orders and handed over to the civil courts, the which not only human law but also the canonical authority of the Divine law sanctioned. Whence also concerning such it is found in the canons, "let him be given over to the court." Whence those who were prepared with learning on the king's behalf alleged, in nowise should be sent to exile or a monas-

tery, but rather, according to the canons, to the court, and this "to be handed over to the court" [they explained to mean] to be given over to the secular power to be punished.

To the king and his party bringing forward these things, the archbishop, having had counsel with the bishops of his province and with prelates of learning, when he had answered at length and clearly on behalf of ecclesiastical liberty according to the canonical rule of the ancient fathers, at the end of his speech with all devotion besought the royal clemency not to bring into his realm a new discipline contrary to the rules of the holy fathers, under a new king Christ, and under a new law of Christ, by a new and strange kind of Lord. And this he besought firmly and oft for himself and for the security of the realm, again and again declaring that he neither ought to nor could endure it.

The king nothing moved by this, but rather the more excited as he saw the archbishop and the bishops opposing him and, as he reckoned, so unanimous and constant, demanded whether they would observe his royal custom.

Whereon the archbishop, after counsel had with his brethren, said that he and his brethren would observe them saving their order. And the bishops each made the same answer when questioned singly by the king. But one, Hilary of Chichester, considering rather the king's anger than the opinion of the others, without consulting the archbishop and the bishops changed the expression, saying that he would observe the royal customs *in good faith*; and indeed for a good purpose, as I think, that he might soothe the mind of the king. But the king, in no way appeased, spurned his goodwill with contumely; and turning to the archbishop and bishops, having heard the same speech from all, he said that they had formed a host against him and poison lay in that saying, "*salvo ordine*," and that it was full of guile. Wherefore he demanded that absolutely and without qualification they should promise to obey the customs. The archbishop to this answered that they had sworn fealty to him in life and limb and earthly honour, *salvo ordine suo*; and that under earthly honour were comprehended the royal customs and that they would not be bound in another form to observe them, but only in that to which they had sworn. When the day was now far advanced the king, angrily and without saluting the prelates, departed hastily from the hall, in ire and much indignation.

60. The Constitutions of Clarendon

(1164 A.D.)

In the year of the incarnation of the Lord, 1164, of the papacy of Alexander, the fourth year, of the most illustrious king of the English, Henry II., the tenth year, in the presence of the same king, has been made this memorial of acknowledgement of a certain part of the customs and franchises and dignities of his predecessors, that is to say of King Henry, his grandfather, and of the other kings, which ought to be observed and held in the kingdom. And on account of the discussions and disputes which have arisen between the clergy and the justices of our lord the king and the barons of the kingdom concerning the customs and dignities, this acknowledgement is made in the presence of the archbishops and bishops and clergy and earls and barons and principal men of the kingdom. And these customs, acknowledged by the archbishops and bishops and earls and barons, and by the most noble and ancient of the kingdom, Thomas, archbishop of Canterbury, and Roger, archbishop of York, and Gilbert, bishop of London, and Henry, bishop of Winchester, and Nigel, bishop of Ely, and William, bishop of Norwich, and Robert, bishop of Lincoln, and Hilary, bishop of Chichester, and Jocelyn, bishop of Salisbury, and Richard, bishop of Chester, and Bartholomew, bishop of Exeter, and Robert, bishop of Hereford, and David, bishop of Man, and Roger, bishop-elect of Worcester have conceded, and in the word of truth by their living voice have firmly promised to the lord king and to his heirs should be held and observed, in good faith and without any evil intention; the following being present: Robert, earl of Leicester, Reginald, earl of Cornwall, Conan, count of Brittany, John, count of Eu, Roger, earl of Clare, count Geoffrey de Mandeville, Hugh, earl of Chester, William, earl of Arundel, Earl Patrick, William, count of Ferrarar, Richard de Lacy, Reginald de St. Valery, Roger Bigod, Reginald de Warenne, Richer de Aquila, William de Braose, Richard de Camville, Nigel de Mowbray, Simon de Warfield, Humphrey de Bohun, Matthew de Hereford, Walter de Melway, Manasses Bissett, steward, William Malet, William de Courcy, Robert de Dunstanville, Jocelyn de Balliol, William de Lanvale, William de Cheyney, Geoffrey de Vere, William de Hastings, Hugh de Morville, Alan de Neville, Simon Fitz-Peter, William Malduit, chamberlain, John Malduit, John Marshall, Peter de Mare, and many others of the principal men and nobles of the kingdom, as well clergy as laity.

Of these acknowledged customs and dignities of the realm, a certain part is contained in the present writing. Of this part the heads are as follows:

§ 1. If any controversy has arisen concerning the advowson and presentation of churches between laymen, or between laymen and ecclesiastics, or between ecclesiastics, it is to be considered or settled in the court of the lord king.

§ 2. Churches of the fee of the lord king cannot be given perpetually without his assent and grant.

§ 3. Clergymen charged and accused of anything, when they have been summoned by a justice of the king shall come into his court, to respond there to that which it shall seem good to the court of the king for them to respond to, and in the ecclesiastical court to what it shall seem good should be responded to there; so that the justice of the king shall send into the court of holy church to see how the matter shall be treated there. And if a clergyman shall have been convicted or has confessed, the church ought not to protect him otherwise.

§ 4. It is not lawful for archbishops, bishops, and persons of the realm to go out of the realm without the permission of the lord king. And if they go out, if it please the lord king, they shall give security that neither in going nor in making a stay nor in returning will they seek evil or loss to the king or the kingdom.

§ 5. Excommunicated persons ought not to give permanent security nor offer an oath, but only security and a pledge to stand to the judgment of the church, in order that they may be absolved.

§ 6. Laymen ought not to be accused except by definite and legal accusers and witnesses, in the presence of the bishop, so that the archdeacon shall not lose his right, nor anything which he ought to have from it. And if there are such persons as are blamed, but no one wishes or no one dares to accuse them, let the sheriff when required by the bishop cause twelve legal men of the neighbourhood or of the township to take an oath in the presence of the bishop that they will show the truth about it according to their conscience.

§ 7. No one who holds from the king in chief, nor any one of the officers of his demesnes shall be excommunicated, nor the lands of any one of them placed under an interdict, unless the lord king, if he is in the land, first agrees, or his justice, if he is out of the realm, in order that he may do right

concerning him; and so that what shall pertain to the king's court shall be settled there, and for that which has respect to the ecclesiastical court, that it may be sent to the same to be considered there.

§ 8. Concerning appeals, if they should occur, they ought to proceed from the archdeacon to the bishop, from the bishop to the archbishop. And if the archbishop should fail to show justice, it must come to the lord king last, in order that by his command the controversy should be finally terminated in the court of the archbishop, so that it ought not to proceed further without the assent of the lord king.

§ 9. If a contest has arisen between a clergyman and a layman or between a layman and a clergyman, concerning any tenement which the clergymen wishes to bring into charitable tenure, but the layman into a lay fief, it shall be settled by the deliberation of a principal justice of the king, on the recognition of twelve legal men, whether the tenement pertains to charity or to a lay fief, in the presence of that justice of the king. And if the recognition shall decide that it belongs to charity, the suit will be in the ecclesiastical court, but if to a lay fief, unless both are answerable to the same bishop or baron, the suit will be in the king's court. But if both shall be answerable concerning that fief before the same bishop or baron, the suit will be in his court, provided that the one who was formerly in possession shall not lose his possession on account of the recognition which has been made until it has been decided upon through the suit.

§ 10. If any one who is of a city or a castle or a borough or a demesne manor of the lord king has been summoned by the archdeacon or the bishop for any offence for which he ought to respond to them, and is unwilling to make answer to their summons, it is fully lawful to place him under an interdict, but he ought not to be excommunicated before the principal officer of the lord king for that place agrees, in order that he may adjudge him to come to the answer. And if the officer of the king is negligent in this, he himself will be at the mercy of the lord king, and afterward the bishop shall be able to coerce the accused man by ecclesiastical justice.

§ 11. Archbishops, bishops, and all persons of the realm, who hold from the king in chief, have their possessions from the lord king as a barony, and are responsible for them to the justices and officers of the king, and follow and perform all royal rules and customs; and just as the rest of the barons

ought to be present at the judgment of the court of the lord king along with the barons, at least till the judgment reaches to loss of limbs or to death.

§ 12. When an archbishopric or bishopric or abbacy or priorate of the demesne of the king has become vacant, it ought to be in his hands and he shall take thence all its rights and products just as demesnes. And when it has come to providing for the church, the lord king ought to summon the more powerful persons of the church, and the election ought to be made in the chapel of the lord king himself, with the assent of the lord king and with the agreement of the persons of the realm whom he has called to do this. And there the person elected shall do homage and fealty to the lord king as to his liege lord, concerning his life and his limbs and his earthly honour, saving his order, before he shall be consecrated.

§ 13. If any one of the great men of the kingdom has prevented archbishop, bishop or archdeacon from exercising justice upon himself or his, the lord king ought to bring him to justice. And if by chance anyone has deprived the lord king of his right, the archbishops and bishops and archdeacons ought to bring him to justice in order that he may give satisfaction to the lord king.

§ 14. The chattels of those who are in forfeiture to the king no church or church-yard must detain against the justice of the king, because they are the king's whether they have been found within the churches or without.

§ 15. Suits concerning debts which are owed through the medium of a bond or without the medium of a bond should be in the jurisdiction of the king.

§ 16. Sons of rustics ought not to be ordained without the assent of the lord upon whose land they are known to have been born.

The acknowledgment of the aforesaid royal customs and dignities has been made by the aforesaid archbishops, and bishops, and earls, and barons, and the more noble and ancient of the realm, at Clarendon, on the fourth day before the Purification of the Blessed Mary, perpetual Virgin, Lord Henry with his father, the lord king, being there present. There are, however, many other and great customs and dignities of holy mother church and of the lord king, and of the barons of the realm, which are not contained in this writing. These are preserved to holy church and to the lord king and to his heirs and to the barons of the realm, and shall be observed inviolably forever.

61. The King's Rash Words and Remorse

William Fitz Stephen

The Archbishops of York and the Bishops of London and Salisbury, with the Archdeacon of Poitiers (the Archdeacon of Canterbury was delayed on the sea by bad weather), having crossed the water, came to the King's court. He had already heard of the suspension and excommunication of the bishops. They repeat to him the whole story. They lay all the blame upon the Archbishop; they declare him to be guilty of treason in what he has done. Falsehood doubles his offence. It had been told the King that the Archbishop was making the circuit of the kingdom at the head of a large body of men. The King asks the Archbishop of York and the Bishops of London and Salisbury to advise him what to do. "It is not our part," they say, "to tell you what must be done." At length one says, "My lord, while Thomas lives, you will not have peace or quiet or see another good day." On hearing this, such fury, bitterness, and passion took possession of the King, as his disordered look and gesture expressed, that it was immediately understood what he wanted.

When they saw his emotion, four knights, barons of the king's household, seeking to please him, named Reginald Fitz Urse, William de Traci, Hugh de Morville, Richard Brito having sworn the death of the Archbishop, departed sailing from different ports. By the guidance of the devil the old enemy of all good, they met at the same hour on the morrow at the castle of the family of Broc, at Saltwood.

Whilst we were lately assembled in council before our lord the king, and supposed we were going to discuss important matters connected with the Church, . . . we are told by some who are just come over from England, that certain enemies of the archbishop, provoked to madness, it is said, by frequent causes of exasperation, have suddenly set upon him, and—I can hardly write for my tears—have attacked his person and put him to a cruel death. At the first words of the messenger the king burst into loud lamentations, and exchanged his royal robes for sackcloth and ashes, acting more like a friend than the sovereign of the deceased. At times he ceased his cries and became stupid; after which he burst again into cries and lamentations louder than before. Three whole days he spent in his chamber, and would receive neither food nor consolation, but by the excess of his grief it seemed as if he had thoroughly made up his mind to die. The state of things indeed became alarming, and we had now

a double cause for anxiety. First we had to lament the death of the bishop, now we almost despaired of the life of the king, and so in losing one we thought our evil fortune would deprive us of both.

(William Fitz Stephen. From *St. Thomas of Canterbury*, ed. cited. p. 232.)

62. The Assize of Clarendon

(1166)

The *Assize of Clarendon* is of great importance to the historical student because of its re-arrangement of judicial processes. It is a valuable legal landmark. By it the custom of the country was crystallised in the provision for a jury of presentment, analogous to the modern grand jury. The old form of compurgation was finally superseded, and that of collective responsibility reaffirmed. The whole document is worthy of intensive study.

Here begins the Assize of Clarendon, made by King Henry II. with the assent of the archbishops, bishops, abbots, earls and barons of all England.

§ 1. In the first place, the aforesaid King Henry, with the consent of all his barons, for the preservation of the peace and the keeping of justice, has enacted that inquiry should be made through the several counties and through the several hundreds, by twelve of the more legal men of the hundred and by four of the more legal men of each manor, upon their oath that they will tell the truth, whether there is in their hundred or in their manor, any man who has been accused or publicly suspected of himself being a robber, or murderer, or thief, or of being a receiver of robbers, or murderers, or thieves, since the lord king has been king. And let the justices make this inquiry before themselves, and the sheriffs before themselves.

§ 2. And let anyone who has been found by the oath of the aforesaid, to have been accused or publicly suspected of having been a robber, or murderer, or thief, or a receiver of them, since the lord king has been king, be arrested and go to the ordeal of water and let him swear that he has not been a robber, or murderer, or thief, or receiver of them since the lord king has been king, to the value of five shillings, so far as he knows.

§ 3. And if the lord of the man who has been arrested or his steward or his men shall have claimed him, with a pledge, within the third day after he has been seized, let him be given up and his chattels until he himself makes his law.

§ 4. And when a robber, or murderer, or thief, or receiver

of them shall have been seized through the above-mentioned oath, if the justices are not to come very soon into that county where they have been arrested, let the sheriffs send word to the nearest justice by some intelligent man that they have arrested such men, and the justices will send back word to the sheriffs where they wish that these should be brought before them; and the sheriffs shall bring them before the justices; and along with these they shall bring from the hundred and the manor where they have been arrested, two legal men to carry the record of the county and of the hundred as to why they were seized, and there before the justice let them make their law.

§ 5. And in the case of those who have been arrested through the aforesaid oath of this assize, no one shall have court, or judgment, or chattels, except the lord king in his court before his justices, and the lord king shall have all their chattels. In the case of those, however, who have been arrested, otherwise than through this oath, let it be as it has been accustomed and ought to be.

§ 6. And the sheriffs who have arrested them shall bring such before the justice without any other summons than they have from him. And when robbers, or murderers, or thieves, or receivers of them, who have been arrested through the oath or otherwise, are handed over to the sheriffs they also must receive them immediately without delay.

§ 7. And in the several counties where there are no jails, let such be made in a borough or in some castle of the king, from the money of the king and from his forest, if one shall be near, or from some other neighbouring forest, on the view of the servants of the king; in order that in them the sheriffs may be able to detain those who have been seized by the officials who are accustomed to do this or by their servants.

§ 8. And the lord king moreover wills that all should come to the county courts to make this oath, so that no one shall remain behind because of any franchise which he has or court or jurisdiction which he had, but that they should come to the making of this oath.

§ 9. And there is to be no one within a castle or without a castle or even in the honour of Wallingford, who may forbid the sheriffs to enter into his court or his land for seeing to the frankpledges and that all are under pledges; and let them be sent before the sheriffs under a free pledge.

§ 10. And in cities and boroughs, let no one have men or receive them in his house or in his land or his soc, whom he

does not take in hand that he will produce before the justice if they shall be required, or else let them be under a frankpledge.

§ 11. And let there be none in a city or borough or in a castle or without, or even in the honour of Wallingford, who shall forbid the sheriffs to enter into his land or his jurisdiction to arrest those who have been charged or publicly suspected of being robbers or thieves or receivers of them, or outlaws, or persons charged concerning the forest; but he requires that they should aid them to capture these.

§ 12. And if any one is captured who has in his possession the fruits of robbery or theft, if he is of bad reputation and has an evil testimony from the public, and has not a warrant, let him not have law. And if he shall not have been accused on account of the possession which he has, let him go to the water.

§ 13. And if any one shall have acknowledged robbery or murder or theft or the reception of them in the presence of legal men or of the hundreds, and afterwards shall wish to deny it, he shall not have law.

§ 14. The lord king wills moreover that those who make their law and shall be absolved by the law, if they are of very bad testimony, and publicly and disgracefully spoken ill of by the testimony of many and legal men, shall abjure the lands of the king, so that within eight days they shall go over the sea, unless the wind shall have detained them; and with the first wind which they shall have afterward they shall go over the sea, and they shall not afterward return into England, except on the permission of the lord king; and then let them be outlawed if they return, and if they return they shall be seized as outlaws.

§ 15. And the lord king forbids any vagabond, that is a wandering or an unknown man, to be sheltered anywhere except in a borough, and even there he shall be sheltered only one night, unless he shall be sick there, or his horse, so that he is able to show an evident excuse.

§ 16. And if he shall have been there more than one night, let him be arrested and held until his lord shall come to give securities for him, or until he himself shall have secured pledges; and let him likewise be arrested who has sheltered him.

§ 17. And if any sheriff shall have sent word to any other sheriff that men have fled from his county into another county, on account of robbery or murder or theft, or the re-

ception of them, or for outlawry or for a charge concerning the forest of the king, let him arrest them. And even if he knows of himself or through others that such men have fled into his county, let him arrest them and hold them until he shall have secured pledges from them.

§ 18. And let all sheriffs cause a list to be made of all fugitives who have fled from their counties; and let them do this in the presence of their county courts, and they will carry the written names of these before the justices when they come first before these, so that they may be sought through all England, and their chattels may be seized for the use of the king.

§ 19. And the lord king wills that, from the time when the sheriffs have received the summons of the justices in eyre to appear before them with their county courts, they shall gather together their county courts and make inquiry for all who have recently come into their counties since this assize; and that they should send them away with pledges that they will be before the justices, or else keep them in custody until the justices come to them, and then they shall have them before the justices.

§ 20. The lord king moreover prohibits monks and canons and all religious houses from receiving any one of the lesser people as a monk or canon or brother, until it is known of what reputation he is, unless he shall be sick unto death.

§ 21. The lord king moreover forbids any one in all England to receive in his land or his jurisdiction or in a house under him any one of the sect of those renegades who have been excommunicated and branded at Oxford. And if any one shall have received them, he will be at the mercy of the lord king, and the house in which they have been shall be carried outside the village and burned. And each sheriff will take this oath that he will hold this, and will make all his servants swear this, and the stewards of the barons, and all knights and free tenants of the counties.

§ 22. And the lord king wills that this assize shall be held in his kingdom so long as it shall please him.

(Translations and Reprints, ed. cited.)

63. Constitution of the King's Household

Little Black Book of the Exchequer

This document is of sufficient importance to warrant its introduction into this book of sources. In the words of its most able editor, HUBERT HALL, F.S.A., of the Public Record Office: "The value of this historical document is inestimable. It brings us into

touch with the Angevin king [Henry II.] and possibly with his Norman predecessors, by affording a hundred clues to court life." Beside this, it affords a host of suggestions upon the manners of the times.

THIS IS THE CONSTITUTION OF THE KING'S HOUSE

The Chancellor.

Five shillings daily and one royal simnel, and two [of dripping,] and one sextary of clear wine, and one sextary of household wine, and one wax-candle and forty candle-ends.

The Master of the Scriptorum.

Formerly tenpence daily, and one simnel [of dripping,] and half a sextary of household wine, and one thick candle and twelve candle-ends. But King Henry increased Robert de Sigillo by so much, that on the day of the king's death he had two shillings, and one sextary of household wine, and one simnel [of dripping,] and one taper and twenty-four candle-ends.

The Chaplain, Keeper of the Chapel and Relics.

The entertainment of two men and four serjeants of the Chapel, each a double ration; and two sumpter-horses of the Chapel, each one penny daily and one penny to shoe them monthly. For the service of the Chapel, two wax-candles on Wednesday and two on Saturday; and every night one wax-candle at the Relics, and thirty candle-ends; and one gallon of clear wine at mass and one sextary of household wine on the day of Absolution, to wash the altar. On Easter Day, at Communion, one sextary of clear wine and one of household wine.

The Clerk of the household bread and wine.

Two shillings daily, and one simnel [of dripping,] and one sextary of household wine, and one taper and twenty-four candle-ends.

Of the Stewards of the bread.

The regular Master Steward of the bread, if he shall eat without the king's house, two shillings and tenpence daily, and one simnel [of dripping,] and one sextary of household wine, and candles fully.

Of the Sewers.

The Sewers the same as the Chancellor, if they shall eat without the house; if within, three shillings and sixpence, and two simnels [of dripping,] and one sextary of household wine and candles fully.

Of the Stewards serving in turn.

If without the house, nineteen pence daily, and one simnel [of dripping,] and one sextary of household wine, and one thick candle and twenty candle-ends. If within, ten-pence and half a sextary of household wine and candles fully.

Of the Naperers.

The Naperer, the customary ration. To his man, three half-pence daily, and one penny for a sumpter-horse, and one penny monthly to shoe him.

The Usher of the Dispensary.

The same, the sumpter-horse excepted.

The Counter of the Bread.

The customary ration.

Of the four Bakers serving together in their turn.

Two who serve in the house shall eat in the house; and two who go abroad shall have forty pence to procure a measure of Rouen for which they should render forty royal simnels and a hundred and fifty [of dripping,] and two hundred and seventy baker's loaves. A royal simnel to four, one [of dripping] to two, and a loaf to each.

Of the Waferers.

The Waferer, the customary ration; and three half-pence to his man daily.

The Keeper of the Tables.

So much as the above; and besides this a sumpter-horse with his allowance.

The bearer of the Alms-dish shall eat in the house.

Of the Stewards of the Larder.

The Master Steward of the Larder, the same as the Master Steward of the bread and wine, and in the same manner.

Likewise the Stewards of the Larder serving in turn, like also as the Stewards of the bread and wine serve in turn. The Larderers who serve in turn, the customary ration, and their man three half-pence daily. The Usher of the Larder the same. The Slaughter-men the customary ration only.

Of the Cooks.

The Cook of the king's kitchen shall eat in the house. Three half-pence to his man. * * * * *

Of the Great Kitchen.

The king's Poulterer, the customary ration and three half-pence to his man.

Two Cooks, each of them the customary ration. Three half-pence to their man.

The Serjeants of the same kitchen, the customary ration only.

The Usher of the Spithouse, the customary ration; to his man three half-pence.

The Turn Spit likewise.

Likewise the Keeper of the Dishes, and besides this one sumpter-horse with his allowance.

The Carter of the great kitchen, a double ration, and for his horse a proper allowance.

The Carter of the Larder likewise.

The Serjeant who receives the venison shall eat within; and three half-pence to his man.

The Master Butler, the same as the Sewer, and they have one allowance and in the same manner.

The Master Stewards of the Butlery who serve in turn, the same as the Stewards of the Dispensary who serve in turn. But they have more candle, because they have a taper and twenty-four candle-ends.

The Usher of the Butlery, the customary ration, and three half-pence to his man.

The Hosiers shall eat in the house, and to each of their men threepence.

The Butterer, the customary ration, and threepence to his men, and half a sextary of household wine and twelve candle-ends.

The Workmen of the Buttery, the customary ration only, but the serjeant besides this three half-pence to his man and two sumpter-horses with their allowances.

Of the Keepers of the Cups.

Four only must serve together in their turn, of whom two shall eat in the house, and each for his man three half-pence. Two other shall have the customary ration and likewise three half-pence to their men.

The Keepers of the Mazers a double ration only.

Of the Fruiterers.

The Fruiterer shall eat in the house, and three of his men.

The Carter the customary ration and allowance for his horses.

The Master Chamberlain is equal with the Sewer in his allowance.

The Treasurer as the Master Chamberlain if he shall be in the Court and shall serve in the Treasury. William Maudut fourteen pence daily, and he shall eat regularly in the house, and one thick candle and thirteen candle-ends and two sumpter-horses with their allowances.

The Porter of the King's Litter shall eat in the house, and to his man three half-pence and one sumpter-horse with his allowance.

The Chamberlain who serves in his turn two shillings daily, and one simnel [of dripping,] and one sextary of household wine, and one taper and fourteen candle-ends.

The Chamberlain of the Candles eightpence daily, and half a sextary of household wine.

The King's Tailor shall eat in his house, and to his man three half-pence.

The Chamberlain shall eat in the house without allowance if he shall desire it.

The Water-carrier a double ration, and when the king goes abroad one penny to wring out the king's clothes; and when the king bathes, threepence, except on the three feasts of the year.

Of the Washerwoman — doubtful.

The Constables have allowances like as the Sewers, and in like manner William, son of Odo, one royal simnel and one sextary of clear wine and one taper and twenty-four candle-ends.

Henry de la Pomerai, if he shall eat without the house, two shillings daily, and one simnel [of dripping,] and one sextary of household wine, and one taper, and twenty-four candle-ends; but if within, fourteen pence and half a sextary of household wine, and candle fully.

Roger de Oyli likewise.

Of the Marshalsea.

The Master Marshal likewise, namely, John. And besides this he ought to have vouchers of the gifts and allowances that may arise from the King's Treasury and from his Chamber, and he ought to have vouchers against all the king's officials as witness for all things.

The four Marshals who serve the family of the king as well clerks as knights and ministers, the day whereon they

make a harbourage or abide without the Court in the king's business, eightpence daily, and one gallon of household wine and twelve candle-ends. If without, threepence daily for their man and a full candle. And if anyone of the Marshals shall be sent on the king's business, eightpence only.

The Serjeants of the Marshals if they shall be sent on the king's business, to each of them, daily, threepence. But if not they shall eat in the king's house.

The Ushers, servants of the Bishop, shall eat in the house; to each of their men three half-pence daily and eight candle-ends.

Gilbert Bonnehomme and Ralph shall eat in the house without any other allowance.

The Watchmen, a double ration; and to their men three half-pence daily and four candles, and besides this of a morning each of them two loaves and one dish of meat and one gallon of beer.

The Keeper of the Hearth shall always eat in the house, and from the feast of Saint Michael to Easter every day fourpence for the fire.

The Usher of the Chamber each day on which the king fares abroad fourpence for the king's bed.

The Keeper of the Tents shall eat in the house, and whenever he was to carry the tents, he used to have allowance for one man and one sumpter-horse.

Each of the four Hornblowers threepence daily.

Twenty Serjeants, each one penny daily.

The Keepers of the Gazehounds, each threepence daily and two-pence to their men.

And for every Harrier a half-penny daily.

The King's Mews eightpence daily.

The Knight's Huntsmen eightpence daily each.

The Cat Hunters each fivepence.

The Leader of the Limmers a penny.

A Limmer, a half-penny.

The Bear-ward threepence daily.

The Huntsmen of the Hart, each threepence daily, and of the great Hart four ought to have a penny, and of the small Hart seven a penny.

For the great Hart two men, and each a penny daily; and for the small Hart two men, and each a penny daily.

The Keepers of the Brachs, each threepence daily.

The Wolf-catchers, twenty pence daily for them and their men and dogs, and they ought to have twenty-four coursing dogs, and eight Harriers, and six pounds by the year to buy horses, but they themselves say eight.

Of the Archers who used to carry the king's bow, each five-pence daily; and other archers the same.

Bernard, Ralph le Bobeur, and their fellows each threepence daily.

(In *Court Life under the Plantagenets*, ed. H. Hall, London, 1890. p. 244.)

64. The First Coronation of Richard I.

Roger de Hovenden

The ceremony described by Roger de Hovenden illustrates the form by which the kings of England were installed in office. The royal state used by the Norman kings was derived from their Saxon predecessors and continued by the Angevins. The student should observe the function of the Church, the oath of the king, the manner of anointing and crowning, and the oaths of fealty and homage which concluded the ceremony.

First came the bishops, abbats, and large numbers of the clergy, wearing silken hoods, preceded by the cross, taper-bearers, censers, and holy water, as far as the door of the king's inner chamber; where they received the before-named duke, and escorted him to the church of Westminster, as far as the high altar, in solemn procession, with chaunts of praise, while all the way along which they went, from the door of the king's chamber to the altar, was covered with woollen cloth. The order of the procession was as follows: First came the clergy in their robes, carrying holy water, and the cross, tapers, and censers. Next came the priors, then the abbats, and then the bishops, in the midst of whom walked four barons, bearing four candlesticks of gold; after whom came Godfrey de Lucy, bearing the king's cap [of maintenance], and John Marshal by him, carrying two great and massive spurs of gold. After these came William Marshal, earl of Striguil, bearing the royal sceptre of gold, on the top of which was a cross of gold, and by him William Fitz-Patrick, earl of Salisbury, bearing a rod of gold, having on its top a dove of gold. After them came David, earl of Huntingdon, brother of the king of Scotland, John, earl of Mortaigne, the duke's brother, and Robert, earl of Leicester, carrying three golden swords from the king's treasury, the scabbards of which were worked all over with gold; the earl of Mortaigne walking in the middle. Next came six earls

and six barons, carrying on their shoulders a very large chequer, upon which were placed the royal arms and robes; and after them William de Mandeville, earl of Aumârlê, carrying a great and massive crown of gold, decorated on every side with precious stones. Next came Richard, duke of Normandy, Hugh, bishop of Durham, walking at his right hand, and Reginald, bishop of Bath, at his left, and four barons holding over them a canopy of silk on four lofty spears. Then followed a great number of earls, barons, knights, and others, both clergy and laity, as far as the porch of the church, and dressed in their robes, entered with the duke, and proceeded as far as the choir.

When the duke had come to the altar, in presence of the archbishops, bishops, clergy, and people, kneeling before the altar, with the holy Evangelists placed before him, and many relics of the saints, according to custom, he swore that he would all the days of his life observe peace, honour, and reverence towards God, the Holy Church, and its ordinances. He also swore that he would exercise true justice and equity towards the people committed to his charge. He also swore that he would abrogate bad laws and unjust customs, if any such had been introduced into his kingdom, and would enact good laws, and observe the same without fraud or evil intent. After this they took off all his clothes from the waist upwards, except his shirt and breeches; his shirt having been previously separated over his shoulders; after which they shod him with sandals embroidered with gold. Then Baldwin, archbishop of Canterbury, pouring holy oil upon his head, anointed him King in three places, on his head, breast, and arms, which signifies glory, valour, and knowledge, with suitable prayers for the occasion; after which the said archbishop placed a consecrated linen cloth on his head, and upon that the cap which Godfrey de Lucy had carried. They then clothed him in the royal robes, first a tunic, and then a dalmatic; after which the said archbishop delivered to him the sword of rule, with which to crush evil-doers against the Church; this done, two earls placed the spurs upon his feet, which John Marshal had carried. After this, being robed in a mantle, he was led to the altar, where the said archbishop forbade him, in the name of Almighty God, to presume to take upon him this dignity, unless he had the full intention inviolably to observe the oaths and vows before-mentioned which he had made; to which he made answer that, with God's assistance, he would without reservation observe them all. After this, he himself took the

crown from the altar and gave it to the archbishop; on which, the archbishop delivered it to him, and placed it upon his head, it being supported by two earls in consequence of its extreme weight. After this, the archbishop delivered to him the sceptre to hold in his right hand, while he held the rod of royalty in his left; and, having been thus crowned, the king was led back to his seat by the before-named bishops of Durham and Bath, preceded by the taper-bearers and the three swords before-mentioned. After this, the mass of our Lord was commenced, and, when they came to the offertory, the before-named bishops led him to the altar, where he offered one mark of the purest gold, such being the proper offering for the king at each coronation; after which, the bishops before-named led him back to his seat. The mass having been concluded, and all things solemnly performed, the two bishops before-named, one on the right hand, the other on the left, led him back from the church to his chamber, crowned, and carrying a sceptre in his right hand and the rod of royalty in his left, the procession going in the same order as before. Then the procession returned to the choir, and our lord the king put off his royal crown and robes of royalty, and put on a crown and robes that were lighter; and, thus crowned, went to dine; on which the archbishops and bishops took their seats with him at the table, each according to his rank and dignity. The earls and barons also served in the king's palace, according to their several dignities; while the citizens of London served in the cellars, and the citizens of Winchester in the kitchen...

On the second day after his coronation, Richard, king of England, received the oaths of homage and fealty from the bishops, abbats, earls, and barons of England.

(Annals of Roger de Hoveden for 1189, trans. by H. T. Riley. London, 1853. II, 117.)

65. Levying a Feudal Aid

(1198)

Roger de Hoveden

The manner in which the king's taxes were collected is well illustrated in the chosen selection. The minuteness of detail in the account makes it as interesting as valuable. This extract should be compared with that describing the levying of an aid in the seventeenth century (No. 152).

...In the same year, Richard, king of England, levied from each carucate or hide of land throughout all England five shillings as an aid; for the purpose of collecting which,

the said king sent through each county of England one clerk and one knight; who, with the sheriff of the county to which they were sent, and lawful knights elected for the purpose, making oath that they would faithfully perform the king's business, caused to appear before them the seneschals of the barons of the said county, and the lord or bailiff of every vill, and the reeve, together with the four lawful men of the vill, whether freemen or villeins, as also two lawful knights of the hundred, who made oath that they would faithfully and without fraud declare what was the amount of carucates in each vill that were in tillage; namely, how many were held in demesne, how many in villanage, how many in almoign bestowed on religious orders, which the givers thereof were bound to make warranty of, or to pay for, or for which the said religious were bound to do service; and upon each carucate in tillage, by the king's commands, they first levied two shillings and then three shillings; all of which was reduced to writing. Of all this the clerk had one register, the knight another, the sheriff a third, and the seneschals of the barons a fourth register as to the land of their lords.

This money was received by the hands of two lawful knights of each hundred, and by the hands of the bailiff of the hundred, and they were answerable for the same to the sheriff, and the sheriff answerable for the same according to the before-mentioned registers to the exchequer, in presence of the bishops, abbats, and barons appointed for the purpose.

Also, for the punishment of the jurors who, contrary to their oath, should be guilty of concealing anything in the said matters, it was enacted that whatever villein should be convicted of perjury he should forfeit to his lord the best ox of his plough, and should, out of his own property, be answerable for as much money for the use of our lord the king as should be proved to have remained concealed by means of his perjury; but if a free man should be convicted, he was to be amerced by the king, and was to refund as well out of his own property as much as had been concealed by him, in the same manner as the villein.

It was also enacted, that every baron should, with the aid of the sheriff, make levies upon his tenants; and if, by default of the baron, such levies should not be made, then there was to be taken from the demesne of the baron what should remain payable by his tenants, and the baron was to take the same from his tenants. Frank-fees of parish

churches were exempted from the said tallage; and all escheats of barons which were held in the hands of our lord the king contributed thereto. But serjeanties of our lord the king, which were not attached to knights' fees, were excepted, although they were placed on the register, as also the number of the carucates of land, the values of their lands, and the names of those holding by serjeanty; and all those so holding, were summoned to be at London on the octave at the end of Easter, to hear and perform the king's commands.

The persons who were chosen for that purpose, and appointed by our lord the king, according to the estimation of lawful men, set down a hundred acres of land for each carucate of land in cultivation.

(*Annals of Roger de Hoveden for 1198*, ed. cited. II, 420.)

PART IV

FROM THE CHARTER TO THE
REFORMATION

(1215-1529)

CHAPTER IX

THE PAPAL AUTHORITY TRIUMPHANT

66. The Struggle between John and Innocent III.

Roger of Wendover

ROGER OF WENDOVER (d. 1237) left a work known as *The Flowers of History* (formerly attributed to Matthew Paris). It is the chief contemporary source for the reign of King John. The stormy rule of that king was full of struggles between the Throne and the Church, and the Throne and the Baronage. The first chain of events grew out of the tripartite struggle between the cathedral chapter of Canterbury, the king, and the pope, to seat their respective candidates in the archbishopric of Canterbury, in place of Hubert Walter, deceased. The pope was able to control the clergy, but the king refused to admit the right of Rome to appoint to the vacant see.

THE KING OF ENGLAND ADMONISHED BY OUR LORD THE POPE

In the same year pope Innocent, on learning that king John's heart was so hardened, that he would not either by persuasion or threats be induced to acquiesce in receiving Stephen as archbishop of Canterbury, was touched to the heart with grief, and, by advice of his cardinals, sent orders to William bishop of London, Eustace bishop of Ely, and Mauger bishop of Winchester, to go to the said king, about the matter of the church of Canterbury, and to give him wholesome counsel to yield to God in this matter, and so secure the Lord's favour; but if they found him contumacious and rebellious as he had hitherto been, he ordered them to lay an interdict on the whole kingdom of England, and to denounce to the said king that, if he did not check his boldness by that means, he, the pope, would lay his hand on him still more heavily; since it was necessary for him to conquer, who for the safety of the holy church had made war on the devil and his angels, and despoiled the cloisters of hell. He also, by letters of the apostolic see, gave orders to the

suffragan bishops of the church of Canterbury, and to the other prelates of that diocese, that, by virtue of their obedience, they were to receive the aforesaid archbishop as their father and pastor, and were to obey him with all due affection.

67. England under the Interdict

A. 1208. The bishops of London, Ely, and Winchester, in execution of the legateship entrusted to them, went to king John, and after duly setting forth the apostolic commands, entreated of him humbly and with tears, that he, having God in his sight, would recall the archbishop and the monks of Canterbury to their church, and honour and love them with perfect affection; and they informed him that thus he would avoid the shame of an interdict, and the Disposer of rewards would, if he did so, multiply his temporal honours on him, and after his death would bestow lasting glory on him. When the said bishops wished, out of regard to the king, to prolong the discourse, the king became nearly mad with rage, and broke forth in words of blasphemy against the pope and his cardinals, swearing by God's teeth, that, if they or any other priests soever presumptuously dared to lay his dominions under an interdict, he would immediately send all the prelates of England, clerks as well as ordained persons, to the pope, and confiscate all their property; he added moreover, that all the clerks of Rome or of the pope himself who could be found in England or in his other territories, he would send to Rome with their eyes plucked out, and their noses slit, that by these marks they might be known there from other people; in addition to this he plainly ordered the bishops to take themselves quickly from his sight, if they wished to keep their bodies free from harm. The bishops then, not finding any repentance in the king, departed, and, in the Lent following, fearlessly fulfilled the duty required of them by the pope, and accordingly on the morning of Monday in Passion week, which that year fell on the 23rd of March, they laid a general interdict on the whole of England; which, since it was expressed to be by authority of our lord the pope, was inviolably observed by all without regard of person or privileges. Therefore all church services ceased to be performed in England, with the exception only of confession, and the viaticum in cases of extremity, and the baptism of children; the bodies of the dead too were carried out of cities

and towns, and buried in roads and ditches without prayers or the attendance of priests. What need I say more?

68. John excommunicated by Name

A. 1209. King John had now for nearly two years, as has been said before, unceasingly continued throughout England, on account of the interdict, a most severe persecution against the clergy as well as some of the laity, and had entirely destroyed all kind of hope in every one of any improvement or satisfaction, and pope Innocent could no longer put off the punishment of his rebellion; wherefore, by the advice of his cardinals, he, in order to cut up by the root such an insult to the church, gave orders to the bishops of London, Ely, and Winchester, to declare the said king excommunicated by name, and solemnly to publish this sentence every Sunday and feast day in all the conventual churches throughout England, that thus the king might be more strictly shunned by every one. But after the aforesaid bishops had, by the apostolic authority, entrusted the publication of this sentence to their fellow bishops who had remained in England, and to the other prelates of the church, they all, through fear of or regard for the king, became like dumb dogs not daring to bark, wherefore they put off fulfilling the duty enjoined on them by the apostolic mandate, and failed to proceed according to the usual course of justice. Nevertheless in a short time the decree became known to all in the roads and streets, and even in the places of assembly of the people it afforded a subject of secret conversation to all; amongst others, as Geoffrey archdeacon of Norwich was one day sitting in the Exchequer at Westminster, attending to the king's business, he began to talk privately with his companions who sat with him, of the decree which was sent forth against the king; and said that it was not safe for beneficed persons to remain any longer in their allegiance to an excommunicated king; after saying which, he went to his own house without asking the king's permission. This event coming soon after to the knowledge of the king, he was not a little annoyed, and sent William Talbot a knight, with some soldiers, to seize the archdeacon, and they, after he was taken, bound him in chains and threw him into prison; after he had been there a few days, by command of the said king a cap of lead was put on him, and at length, being overcome by want of food as well as by the weight of the leaden cap, he departed to the Lord.

69. The Pope deposes the King

A. 1212. About this time Stephen archbishop of Canterbury, and the bishops William of London, and Eustace of Ely, went to Rome and informed the pope of the divers rebellions and enormities perpetrated by the king of England from the time of the interdict up to the present time, by unceasingly laying the hands of rage and cruelty on the holy church in opposition to the Lord; and they therefore humbly supplicated the pope in his pious compassion to assist the church of England, now labouring as it were in its last extremities. The pope then being deeply grieved for the desolation of the kingdom of England, by the advice of his cardinals, bishops, and other wise men, definitively decreed that John king of England should be deposed from the throne of that kingdom, and that another, more worthy than he, to be chosen by the pope, should succeed him. In pursuance of this his decree, our lord the pope wrote to the most potent Philip, king of the French, ordering him, in remission of all his faults, to undertake this business, and declaring that, after he had expelled the English king from the throne of that kingdom, he and his successors should hold possession of the kingdom of England for ever. Besides this, he wrote to all the nobles, knights, and other warlike men throughout the different countries, ordering them to assume the sign of the cross, and to follow the king of the French as their leader, to dethrone the English king, and thus to revenge the insult which had been cast on the universal church: he also ordered that all those who afforded money or personal assistance in overthrowing that contumacious king, should, like those who went to visit the Lord's sepulchre, remain secure under the protection of the church, as regarded their property, persons, and spiritual interests. After this the pope, on his part, sent Pandulph, a sub-deacon, with the archbishop and bishops above-named, into the French provinces, that in his own presence all his commands above related might be fulfilled; Pandulph, however, on leaving the pope when all others were away from him, secretly inquired of his holiness what it was his pleasure should be done, if by chance he should find any of the fruits of repentance in John, so that he would give satisfaction to the Lord and the church of Rome for all matters in regard of this business. The pope then dictated a simple form of peace, and said that if John determined to agree to it, he might find favour with the apostolic see.

70. The Papal Legate in England

A. 1213. Whilst the English king was with his army waiting the approach of the king of the French near the sea-coast, two of the brothers of the Temple arrived at Dover, and coming to the king in a friendly manner said to him: "We have been sent to you, most potent king, for the benefit of yourself and your kingdom, by Pandulph the sub-deacon and familiar of our lord the pope, who desires to have an interview with you; and he will propose to you a form of peace, by which you can be reconciled to God and to the church, although you have by the court of Rome been deposed from your right to the sovereignty of England, and been condemned by decree of that court." The king then, on hearing the speech of the Templars, ordered them immediately to cross the sea and fetch Pandulph to him. Pandulph therefore, on this invitation of the king came to him at Dover, and spoke to him in these words: "Behold, the most potent king of the French is at the mouth of the Seine with a countless fleet, and a large army of horse and foot, waiting till he is strengthened with a larger force, to come upon you and your kingdom, and to expel you from it by force, as an enemy to the Lord and the supreme pontiff, and afterwards, by authority of the apostolic see to take possession of the kingdom of England for ever. There are also coming with him all the bishops who have for a long while been banished from England, with the exiled clergy and laity, by his assistance, to recover by force their episcopal sees and other property, and to fulfil to him for the future the obedience formerly shown to you and your ancestors. The said king moreover says that he holds papers of fealty and subjection from almost all the nobles of England, on which account he feels secure of bringing the business he has undertaken to a most successful termination. Consult therefore your own advantage, and become penitent as if you were in your last moments, and delay not to appease that God whom you have provoked to a heavy vengeance. If you are willing to give sufficient security that you will submit to the judgment of the church, and to humble yourself before Him who humbled himself for you, you may, through the compassion of the apostolic see, recover the sovereignty, from which you have been abjudicated at Rome on account of your contumacy. Now therefore reflect, lest your enemies shall have cause to rejoice over you, and bring not yourself into difficulties,

from which, however you may wish to do so, you will not be able to extricate yourself."

71. The Repentance of the King

[A.D. 1213.] King John, hearing and seeing the truth of all this, was much annoyed and alarmed, seeing how imminent the danger was on every side. There were four principal reasons, which urged him to repentance and atonement; the first was that he had been now for five years lying under excommunication, and had so offended God and the holy church, that he gave up all hopes of saving his soul; the second was, that he dreaded the arrival of the French king, who was waiting near the sea-coast with a countless army, and planning his downfall; the third was, he feared, should he give battle to his approaching enemies, lest he should be abandoned to himself in the field by the nobles of England and his own people, or be given up to his enemies for destruction; but his fourth reason alarmed him more than all the rest, for the day of our Lord's ascension was drawing near, when he feared that, according to the prophecy of Peter the hermit mentioned above, he should with his life lose the temporal as well as the eternal kingdom. Being therefore driven to despair by these and the like reasons he yielded to the persuasions of Pandulph, and, although not without pain, he granted the underwritten form of peace; he also swore by the holy gospels in the presence of Pandulph, that he would be obedient to the church's sentence, and sixteen of the most powerful nobles of the kingdom swore on the soul of the king himself, that, should he repent of his promise, they would, to the utmost of their power, compel him to fulfil it.

72. John resigns Crown and Kingdom to the Pope

[A.D. 1213.] Matters having been thus arranged on the fifteenth of May, which was the eve of Ascension-day, the English king and Pandulph, with the nobles of the kingdom, met at the house of the Knights Templars near Dover, and there the said king, according to a decree pronounced at Rome, resigned his crown with the kingdoms of England and Ireland into the hands of our lord the pope, whose functions the said Pandulph was then performing. After having resigned them then he gave the aforesaid kingdoms to the pope and his successors, and confirmed them to the latter by the underwritten charter:—

“John, by the grace of God, king of England, &c. to all the faithful servants of Christ who shall behold this charter, health in the Lord. — We wish it, by this our charter signed with our seal, to be known to you, that we, having in many things offended God and our mother the holy church, and being in great need of the divine mercy for our sins, and not having wherewithal to make a worthy offering as an atonement to God, and to pay the just demands of the church, unless we humiliate ourselves before Him who humiliated himself for us even to death; we, impelled by the inspiration of the Holy Spirit, and not by force or from fear of the interdict, but of our own free will and consent, and by the general advice of our barons, assign and grant to God, and his holy apostles Peter and Paul, and to the holy church of Rome our mother, and to our lord pope Innocent and his catholic successors, the whole kingdom of England and the whole kingdom of Ireland, with all their rights and appurtenances, in remission of the sins of us and our whole race, as well for those living as for the dead; and henceforth we retain and hold those countries from him and the church of Rome as vicegerent, and this we declare in the presence of this learned man Pandulph, subdeacon and familiar of our lord the pope. And we have made our homage and sworn allegiance to our lord the pope and his catholic successors, and the church of Rome in manner hereunder written; and we will make our homage and allegiance for the same in presence of our lord the pope himself, if we are able to go before him; and we bind our successors and heirs by our wife for ever, in like manner, to do homage and render allegiance, without opposition, to the supreme pontiff for the time being, and the church of Rome. And in token of this lasting bond and grant, we will and determine that, from our own income and from our special revenues arising from the aforesaid kingdoms, the church of Rome shall, for all service and custom which we owe to them, saving always the St. Peter’s pence, receive annually a thousand marks sterling money; that is to say, five hundred marks at Michaelmas, and five hundred at Easter; that is, seven hundred for the kingdom of England, and three hundred for Ireland; saving to us and our heirs all our rights, privileges, and royal customs. And as we wish to ratify and confirm all that has been above written, we bind ourselves and our successors not to contravene it; and if we, or any one of our successors, shall dare to oppose this, let him, whoever he be, be deprived

of his right in the kingdom. And let this charter of our bond and grant remain confirmed for ever. Witness myself at the house of the knights of the Temple near Dover, in the presence of Henry archbishop of Dublin, John bishop of Norwich, Geoffrey Fitz-Peter, William earl of Salisbury, William earl of Pembroke, Reginald count of Boulogne, William earl Warenne, Sayer earl Winton, William earl of Arundel, William earl of Ferrars, William Briwere, Peter Fitz-Herbert, and Warin Fitz-Gerald, this fifteenth day of May, in the fourteenth year of our reign."

73. John does Homage to the Pope

[A.D. 1213.] This charter of the king's, as above-mentioned, having been reduced to writing, he delivered it to Pandulph to be taken to pope Innocent, and immediately afterwards in the sight of all, he made the underwritten homage: "I, John, by the grace of God, king of England and lord of Ireland, will, from this time as formerly, be faithful to God, St. Peter, the church of Rome, and to my liege lord pope Innocent and his catholic successors; I will not act, speak, consent to, or advise, anything by which they may lose life or limb, or be exposed to caption by treachery; I will prevent damage to them if I am aware of it; and, if in my power, will repair it; or else I will inform them as soon as in my power so to do, or will tell it to such a person as I believe will be sure to inform them of it; any purpose which they may entrust to me themselves, or by their messengers or letters, I will keep secret, and, if I know of it, will not disclose it to any one to their injury; I will assist in holding and defending the inheritance of St. Peter, and particularly the kingdoms of England and Ireland, against all men, to the utmost of my power. So may God and the holy gospel help me, Amen." —

[A.D. 1214.] By the advice of Pandulph, . . . Stephen archbishop of Canterbury, and the bishops William of London, Eustace of Ely, Hubert of Lincoln, and Giles of Hereford, embarked in company with others of the clergy and laity who were in exile on account of the interdict, and, landing at Dover on the 16th of July, they set out to see the king, and came to him at Winchester on St. Margaret the virgin's day. The king, when he heard of their approach, went out to meet them, and when he saw the archbishop and bishops, he prostrated himself at their feet, and besought them in tears to

have compassion on him and the kingdom of England. The said archbishop and bishops, seeing the king's great humility, raised him from the ground, and taking him by the hand on each side, they led him to the door of the cathedral church, where they chanted the fiftieth psalm, and, in the presence of all the nobles, who wept with joy, they absolved him according to the custom of the church. At this absolution, the king swore on the holy gospels that he would love holy church and its ordained members, and would, to the utmost of his power, defend and maintain them against all their enemies; and that he would renew all the good laws of his ancestors, especially those of king Edward, would annul bad ones, would judge his subjects according to the just decrees of his courts, and would restore his rights to each and all. He also swore that, before the next Easter, he would make restitution of confiscated property to all who were concerned in the matter of the interdict: and if he did not do so, he would consent to have the former sentence of excommunication renewed. He moreover swore fealty and obedience to pope Innocent and his catholic successors, as was contained in the above-written charter: the archbishop then took the king into the church, and there performed mass, after which the archbishop, bishops, and nobles, feasted at the same table with the king, amidst joy and festivity. The next day the king sent letters to all the sheriffs of the kingdom, ordering them to send four liege men from each town in their demesne, together with the warden, to St. Alban's on the 4th of August, that through them and his other agents he might make inquiries about the losses and confiscated property of each of the bishops, and how much was due to each. He then set out in all haste to Portsmouth, that he might thence cross to Poitou, and gave charge of the kingdom to Geoffrey Fitz-Peter and the bishop of Winchester, with orders that they were to consult with the archbishop of Canterbury in arranging the business of the kingdom. On the king's arrival at Portsmouth, there came to him there an immense number of knights, complaining that, during their long stay there they had spent all their money, and that therefore unless they were supplied with money from the treasury, they could not follow him. This the king refused, but, flying into a rage, he embarked with his private attendants, and after three days landed at Guernsey, whilst his nobles returned home; and the king, seeing himself thus abandoned, was compelled to return to England himself.

74. Declaration of Laws and Rights

[A.D. 1214.] Whilst this was passing, Geoffrey Fitz-Peter and the bishop of Winchester held a council at St. Alban's with the archbishop, bishops, and nobles of the kingdom, at which the peace made by the king was told to all, and, on behalf of the said king, it was strictly ordered, that all the laws of his grandfather king Henry should be kept by all throughout the kingdom, and that all unjust laws should be utterly abolished.

(Roger of Wendover's *Flowers of History*. Trans. J. A. Giles, Lond. 1849
II, for years given.)

CHAPTER X

THE WINNING OF THE CHARTER

75. The Rising of the Barons

Roger of Wendover

The sequence of events leading to the grant of the Charter by John not only throws light upon the character of that monarch, but gives a clear view of the political conditions in the early part of the thirteenth century.

THE REASON OF THE IRRITATION OF THE BARONS AGAINST THE KING

[A.D. 1214.] On the 25th of August in the same year, Stephen archbishop of Canterbury, with the bishops, abbats, priors, deacons, and barons of the kingdom assembled at St. Paul's, in the city of London. . . . At this conference, as report asserts, the said archbishop called some of the nobles aside to him, and conversed privately with them to the following effect, "Did you hear," said he, "how, when I absolved the king at Winchester, I made him swear that he would do away with unjust laws, and would recall good laws, such as those of King Edward, and cause them to be observed by all in the kingdom; a charter of Henry the first king of England has just now been found, by which you may, if you wish it, recall your long-lost rights and your former condition." And placing a paper in the midst of them, he ordered it to be read aloud for all to hear. [It was the charter of Henry I.]

76. Of a Conference held by the Barons against King John

[A.D. 1214.] About this time the earls and barons of England assembled at St. Edmund's, as if for religious duties, although it was for some other reason; for after they had discoursed together secretly for a time, there was placed before them the charter of king Henry the First, which they had received, as mentioned before, in the city of London from Stephen archbishop of Canterbury. This charter contained

certain liberties and laws granted to the holy church as well as to the nobles of the kingdom, besides some liberties which the king added of his own accord. All therefore assembled in the church of St. Edmund, the king and martyr, and, commencing from those of the highest rank, they all swore on the great altar that, if the king refused to grant these liberties and laws, they themselves would withdraw from their allegiance to him, and make war on him, till he should, by a charter under his own seal, confirm to them every thing they required; and finally it was unanimously agreed that, after Christmas, they should all go together to the king and demand the confirmation of the aforesaid liberties to them, and that they should in the meantime provide themselves with horses and arms, so that if the king should endeavour to depart from his oath, they might by taking his castles, compel him to satisfy their demands; and having arranged this, each man returned home.

77. Demands of the Barons

A.D. 1215; which was the seventeenth year of the reign of king John; he held his court at Winchester at Christmas for one day, after which he hurried to London, and took up his abode at the New Temple; and at that place the above-mentioned nobles came to him in gay military array, and demanded the confirmation of the liberties and laws of king Edward, with other liberties granted to them and to the kingdom and church of England, as were contained in the charter, and above-mentioned laws of Henry the First; they also asserted that, at the time of his absolution at Winchester, he had promised to restore those laws and ancient liberties, and was bound by his own oath to observe them. The king, hearing the bold tone of the barons in making this demand, much feared an attack from them, as he saw that they were prepared for battle; he however made answer that their demands were a matter of importance and difficulty, and he therefore asked a truce till the end of Easter, that he might, after due deliberation, be able to satisfy them as well as the dignity of his crown. After much discussion on both sides, the king at length, although unwillingly, procured the archbishop of Canterbury, the bishop of Ely, and William Marshal, as his sureties, that on the day pre-agreed on he would, in all reason, satisfy them all, on which the nobles returned to their homes. The king however, wishing to take precautions

against the future, caused all the nobles throughout England to swear fealty to him alone against all men, and to renew their homage to him; and, the better to take care of himself, he, on the day of St. Mary's purification, assumed the cross of our Lord, being induced to this more by fear than devotion...

In Easter week of this same year, the above-mentioned nobles assembled at Stamford, with horses and arms; for they had now induced almost all the nobility of the whole kingdom to join them, and constituted a very large army; for in their army there were computed to be two thousand knights, besides horse soldiers, attendants, and foot soldiers, who were variously equipped... all of these being united by oath, were supported by the concurrence of Stephen archbishop of Canterbury, who was at their head. The king at this time was awaiting the arrival of his nobles at Oxford. On the Monday next after the octaves of Easter, the said barons assembled in the town of Brackley; and when the king learned this, he sent the archbishop of Canterbury, and William Marshal earl of Pembroke, with some other prudent men, to them to inquire what the laws and liberties were which they demanded. The barons then delivered to the messengers a paper, containing in great measure the laws and ancient customs of the kingdom, and declared that, unless the king immediately granted them and confirmed them under his own seal, they would, by taking possession of his fortresses, force him to give them sufficient satisfaction as to their before-named demands. The archbishop with his fellow messengers then carried the paper to the king, and read to him the heads of the paper one by one throughout. The king when he heard the purport of these heads, derisively said, with the greatest indignation, "Why, amongst these unjust demands, did not the barons ask for my kingdom also? Their demands are vain and visionary, and are unsupported by any plea of reason whatever." And at length he angrily declared with an oath, that he would never grant them such liberties as would render him their slave....

As the archbishop and William Marshall could not by any persuasions induce the king to agree to their demands, they returned by the king's order to the barons, and duly reported all they had heard from the king to them; and when the nobles heard what John said, they appointed Robert Fitz-Walter commander of their soldiers, giving him the title of "Marshal of the army of God and the holy church," and then,

one and all flying to arms, they directed their forces towards Northampton.

78. London given up to the Barons

[A.D. 1215.] When the army of the barons arrived at Bedford, they were received with all respect by William de Beauchamp. There also came to them there messengers from the city of London, secretly telling them, if they wished to get into that city, to come there immediately. The barons, inspired by the arrival of this agreeable message, immediately moved their camp and arrived at Ware; after this they marched the whole night, and arrived early in the morning at the city of London, and, finding the gates open, they, on the 24th of May, which was the Sunday next before our Lord's ascension, entered the city without any tumult whilst the inhabitants were performing divine service; for the rich citizens were favourable to the barons, and the poor ones were afraid to murmur against them. The barons having thus got into the city, placed their own guards in charge of each of the gates, and then arranged all matters in the city at will. They then took security from the citizens, and sent letters throughout England to those earls, barons, and knights, who appeared to be still faithful to the king, though they only pretended to be so, and advised them with threats, as they regarded the safety of all their property and possessions, to abandon a king who was perjured and who warred against his barons, and together with them to stand firm and fight against the king for their rights and for peace; and that, if they refused to do this, they, the barons, would make war against them all, as against open enemies, and would destroy their castles, burn their houses and other buildings, and destroy their warrens, parks, and orchards. . . . The pleas of the exchequer and of the sheriff's courts ceased throughout England, because there was no one to make a valuation for the king or to obey him in any thing.

79. Meeting at Runnymede

[A.D. 1215.] King John, when he saw that he was deserted by almost all, so that out of his regal superabundance of followers he scarcely retained seven knights, was much alarmed lest the barons would attack his castles and reduce them without difficulty, as they would find no obstacle to their so doing; and he deceitfully pretended to make peace for a time

with the aforesaid barons, and sent William Marshal earl of Pembroke, with other trustworthy messengers, to them, and told them that, for the sake of peace, and for the exaltation and honour of the kingdom, he would willingly grant them the laws and liberties they required; he also sent word to the barons by these same messengers, to appoint a fitting day and place to meet and carry all these matters into effect. The king's messengers then came in all haste to London, and without deceit reported to the barons all that had been deceitfully imposed on them; they in their great joy appointed the fifteenth of June for the king to meet them, at a field lying between Staines and Windsor. Accordingly, at the time and place pre-agreed on, the king and nobles came to the appointed conference, and when each party had stationed themselves apart from the other, they began a long discussion about terms of peace and the aforesaid liberties.... At length, after various points on both sides had been discussed, king John, seeing that he was inferior in strength to the barons, without raising any difficulty, granted the underwritten laws and liberties, and confirmed them by his charter as follows:—

(*Roger of Wendover*, ed. cited, vol. II.)

80. The Magna Charta

(17 JOHN, June 15, 1215)

Foremost among those great documents which illustrate and establish the rights of Englishmen stands the Magna Charta. The text is given in full, for the document should be studied in its entirety. Every paragraph is of importance to the student—though much might be of little interest to the casual reader,—and in a source book none of it can properly be omitted. The events leading up to the charter have been given in considerable detail, not only because of the importance of their result, but also for the light which they throw upon the method by which rights were obtained and wrongs righted. The value of illustrative material does not lie alone in the words thereof, but also in the train of thought which they suggest.

John, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, Count of Anjou, to the archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, reeves, servants, and all bailiffs and his faithful people greeting. Know that by the suggestion of God and for the good of our soul and those of all our predecessors and of our heirs, to the honour of God and the exaltation of holy church, and the improvement of our kingdom, by the advice of our venerable fathers Stephen, archbishop

of Canterbury, primate of all England and cardinal of the holy Roman church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Jocelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, bishops; of Master Pandulf, subdeacon and companion of the Lord Pope, of Brother Aymeric, master of the Knights of the Temple in England; and of the noblemen William Marshall, Earl of Pembroke, William, Earl of Salisbury, William, Earl of Warren, William, Earl of Arundel, Alan of Galloway, constable of Scotland, Warren Fitz-Gerald, Peter Fitz-Herbert, Hubert de Burgh, steward of Poitou, Hugh de Nevil, Matthew Fitz-Herbert, Thomas Bassett, Alan Bassett, Philip d'Albini, Robert de Roppelay, John Marshall, John Fitz-Hugh, and others of our faithful.

1. In the first place we have granted to God, and by this our present charter confirmed, for us and our heirs forever, that the English church shall be free, and shall hold its rights entire and its liberties uninjured; and we will that it be thus observed; which is shown by this, that the freedom of elections, which is considered to be most important and especially necessary to the English church, we, of our pure and spontaneous will, granted, and by our charter confirmed, before the contest between us and our barons had arisen; and obtained a confirmation of it by the lord Pope Innocent III.; which we will observe and which we will shall be observed in good faith for our heirs forever.

We have granted moreover to all free men of our kingdom for us and our heirs forever all the liberties written below, to be had and holden by themselves and their heirs from us and our heirs.

2. If any of our earls or barons, or others holding from us in chief by military service shall have died, and when he has died his heir is of full age and owe relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an earl for the whole barony of an earl a hundred pounds; the heir or heirs of a baron for a whole barony a hundred pounds; the heir or heirs of a knight, for a whole knight's fee, a hundred shillings or more; and who owes less let him give less according to the ancient custom of fiefs.

3. If moreover the heir of any one of such shall be under age, and shall be in wardship, when he comes of age he shall have his inheritance without relief and without a fine.

4. The custodian of the land of such a minor heir shall not

take from the land of the heir any except reasonable products, reasonable customary payments, and reasonable services, and this without destruction or waste of men or of property; and if we shall have committed the custody of the land of any such a one to the sheriff or to any other who is to be responsible to us for its proceeds, and that man has caused destruction or waste from his custody we will recover damages from him, and the land shall be committed to two legal and discreet men of that fief, who shall be responsible for its proceeds to us or to him to whom we have assigned them; and if we shall have given or sold to any one the custody of any such land, and he has caused destruction or waste there, he shall lose that custody, and it shall be handed over to two legal and discreet men of that fief who shall be in like manner responsible to us as is said above.

5. The custodian moreover, so long as he shall have the custody of the land, must keep up the houses, parks, warrens, fish ponds, mills, and other things pertaining to the land, from the proceeds of the land itself; and he must return to the heir, when he has come to full age, all his land, furnished with ploughs and implements of husbandry according as the time of wainage requires and as the proceeds of the land are able reasonably to sustain.

6. Heirs shall be married without disparagement, so nevertheless that before the marriage is contracted, it shall be announced to the relatives by blood of the heir himself.

7. A widow, after the death of her husband, shall have her marriage portion and her inheritance immediately and without obstruction, nor shall she give anything for her dowry or for her marriage portion, or for her inheritance which inheritance her husband and she held on the day of the death of her husband; and she may remain in the house of her husband for forty days after his death, within which time her dowry shall be assigned to her.

8. No widow shall be compelled to marry so long as she prefers to live without a husband, provided she gives security that she will not marry without our consent, if she holds from us, or without the consent of her lord from whom she holds, if she holds from another.

9. Neither we nor our bailiffs will seize any land or rent, for any debt, so long as the chattels of the debtor are sufficient for the payment of the debt; nor shall the pledges of a debtor be distrained so long as the principal debtor himself has enough for the payment of the debt; and if the principal

debtor fails in the payment of the debt, not having the where-withal to pay it, the pledges shall be responsible for the debt; and if they wish, they shall have the lands and the rents of the debtor until they shall have been satisfied for the debt which they have before paid for him, unless the principal debtor shall have shown himself to be quit in that respect towards those pledges.

10. If any one has taken anything from the Jews, by way of a loan, more or less, and dies before that debt is paid, the debt shall not draw interest so long as the heir is under age, from whomsoever he holds; and if that debt falls into our hands, we will take nothing except the chattel contained in the agreement.

11. And if any one dies leaving a debt owing to the Jews, his wife shall have her dowry, and shall pay nothing of that debt; and if there remain minor children of the dead man, necessities shall be provided for them corresponding to the holding of the dead man; and from the remainder shall be paid the debt, the service of the lords being retained. In the same way debts are to be treated which are owed to others than the Jews.

12. No scutage or aid shall be imposed in our kingdom except by the common council of our kingdom, except for the ransoming of our body, for the making of our oldest son a knight, and for once marrying our oldest daughter, and for these purposes it shall be only a reasonable aid; in the same way it shall be done concerning the aids of the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water. Moreover, we will and grant that all other cities and boroughs and villages and ports shall have all their liberties and free customs.

14. And for holding a common council of the kingdom concerning the assessment of an aid otherwise than in the three cases mentioned above, or concerning the assessment of a scutage, we shall cause to be summoned the archbishops, bishops, abbots, earls, and greater barons by our letters under seal; and besides we shall cause to be summoned generally, by our sheriffs and bailiffs, all those who hold from us in chief, for a certain day, that is at the end of forty days at least, and for a certain place; and in all the letters of that summons, we will express the cause of the summons, and when the summons has thus been given the business shall

proceed on the appointed day, on the advice of those who shall be present, even if not all of those who were summoned have come.

15. We will not grant to any one, moreover, that he should take an aid from his free men, except for ransoming his body, for making his oldest son a knight, and for once marrying his oldest daughter; and for these purposes only a reasonable aid shall be taken.

16. No one shall be compelled to perform any greater service for a knight's fee, or for any other free tenement than is owed from it.

17. The common pleas shall not follow our court, but shall be held in some certain place.

18. The assizes of *novel disseisin*, *mort d'ancestor*, and *darrein presentment* shall be held only in their own counties and in this manner: we, or, if we are outside of the kingdom, our principal justiciar, will send two justiciars through each county four times a year, who with four knights of each county, elected by the county, shall hold in the county and on the day and in the place of the county court, the aforesaid assizes of the county.

19. And if the aforesaid assizes cannot be held within the day of the county court, a sufficient number of knights and free-holders shall remain from those who were present at the county court on that day to give the judgments, according as the business is more or less.

20. A free man shall not be fined for a small offence, except in proportion to the measure of the offence; and for a great offence he shall be fined in proportion to the magnitude of the offence, saving his freehold; and a merchant in the same way, saving his merchandise; and the villain shall be fined in the same way, saving his wainage, if he shall be at our mercy; and none of the above fines shall be imposed except by the oaths of honest men of the neighbourhood.

21. Earls and barons shall only be fined by their peers, and only in proportion to their offence.

22. A clergyman shall be fined, like those before mentioned, only in proportion to his lay holding, and not according to the extent of his ecclesiastical benefice.

23. No manor or man shall be compelled to make bridges over the rivers except those which ought to do it of old and rightfully.

24. No sheriff, constable, coroners, or other bailiffs of ours shall hold pleas of our crown.

25. All counties, hundreds, wapentakes, and tithings shall be at the ancient rents and without any increase, excepting our demesne manors.

26. If any person holding a lay fief from us shall die, and our sheriff or bailiff shall show our letters-patent of our summons concerning a debt which the deceased owed to us, it shall be lawful for our sheriff or bailiff to attach and levy on the chattels of the deceased found on his lay lief, to the value of that debt, in the view of legal men, so nevertheless that nothing be removed thence until the clear debt to us shall be paid; and the remainder shall be left to the executors for the fulfilment of the will of the deceased; and if nothing is owed to us by him, all the chattels shall go to the deceased, saving to his wife and children their reasonable shares.

27. If any free man dies intestate, his chattels shall be distributed by the hands of his near relatives and friends, under the oversight of the church, saving to each one the debts which the deceased owed to him.

28. No constable or other bailiff of ours shall take anyone's grain or other chattels, without immediately paying for them in money, unless he is able to obtain a postponement at the good-will of the seller.

29. No constable shall require any knight to give money in place of his ward of a castle if he is willing to furnish that ward in his own person or through another honest man, if he himself is not able to do it for a reasonable cause; and if we shall lead or send him into the army he shall be free from ward in proportion to the amount of time by which he has been in the army through us.

30. No sheriff or bailiff of ours or any one else shall take horses or wagons of any free man for carrying purposes except on the permission of that free man.

31. Neither we nor our bailiffs will take the wood of another man for castles, or for anything else which we are doing, except by the permission of him to whom the wood belongs.

32. We will not hold the lands of those convicted of a felony for more than a year and a day, after which the lands shall be returned to the lords of the fiefs.

33. All the fish-weirs in the Thames and the Medway, and throughout all England, shall be done away with, except those on the coast.

34. The writ which is called *Præcipe* shall not be given for the future to anyone concerning any tenement by which a free man can lose his court.

35. There shall be one measure of wine throughout our whole kingdom, and one measure of ale, and one measure of grain, that is the London quarter, and one width of dyed cloth and of russets and of halbergets, that is two ells within the selvages; of weights, moreover, it shall be as of measures.

36. Nothing shall henceforth be given or taken for a writ of inquisition concerning life or limbs, but it shall be given freely and not denied.

37. If anyone holds of us by fee farm or by soccage or by burgage, and from another he holds land by military service, we will not have the guardianship of the heir of his land which is of the fief of another, on account of that fee farm, or soccage, or burgage; nor will we have the custody of that fee farm, or soccage, or burgage, unless that fee farm itself owes military service. We will not have the guardianship of the heir or of the land of anyone, which he holds from another by military service on account of any petty serjeanty which he holds from us by the service of paying to us knives or arrows, or things of that kind.

38. No bailiff for the future shall place anyone to his law on his simple affirmation, without credible witnesses brought for this purpose.

39. No free man shall be taken or imprisoned or dispossessed, or outlawed, or banished, or in any way destroyed, nor will we go upon him, nor send upon him, except by the legal judgment of his peers or by the law of the land.

40. To no one will we sell, to no one will we deny, or delay right or justice.

41. All merchants shall be safe and secure in going out from England and coming into England and in remaining and going through England, as well by land as by water, for buying and selling, free from all evil tolls, by the ancient and rightful customs, except in time of war, and if they are of a land at war with us; and if such are found in our land at the beginning of war, they shall be attached without injury to their bodies or goods, until it shall be known from us or from our principal justiciar in what way the merchants of our land are treated who shall be then found in the country which is at war with us; and if ours are safe there, the others shall be safe in our land.

42. It is allowed henceforth to anyone to go out from our kingdom, and to return, safely and securely, by land and by water, saving their fidelity to us, except in time of war for some short time, for the common good of the kingdom; ex-

cepting persons imprisoned and outlawed according to the law of the realm, and people of a land at war with us, and merchants, of whom it shall be done as is before said.

43. If anyone holds from any escheat, as from the honour of Wallingford, or Nottingham, or Boulogne, or Lancaster, or from other escheats which are in our hands and are baronies, and he dies, his heir shall not give any other relief, nor do to us any other service than he would do to the baron, if that barony was in the hands of the baron; and we will hold it in the same way as the baron held it.

44. Men who dwell outside the forest shall not henceforth come before our justiciars of the forest, on common summons, unless they are in a plea of, or pledges for any person or persons who are arrested on account of the forest.

45. We will not make justiciars, constables, sheriffs or bailiffs except of such as know the law of the realm and are well inclined to observe it.

46. All barons who have founded abbeys for which they have charters of kings of England, or ancient tenure, shall have their custody when they have become vacant, as they ought to have.

47. All forests which have been afforested in our time shall be disafforested immediately; and so it shall be concerning river banks which in our time have been fenced in.

48. All the bad customs concerning forests and warrens and concerning foresters and warreners, sheriffs and their servants, river banks and their guardians shall be inquired into immediately in each county by twelve sworn knights of the same county, who shall be elected by the honest men of the same county, and within fifty days after the inquisition has been made, they shall be entirely destroyed by them, never to be restored, provided that we be first informed of it, or our justiciar, if we are not in England.

49. We will give back immediately all hostages and charters which have been liberated to us by Englishmen as security for peace or for faithful service.

50. We will remove absolutely from their bailiwicks the relatives of Gerard de Athyes, so that for the future they shall have no bailiwick in England; Engelard de Cygony, Andrew, Peter and Gyon de Chancelles, Gyon de Cygony, Geoffrey de Martin and his brothers, Philip Mark and his brothers, and Geoffrey his nephew and their whole retinue.

51. And immediately after the re-establishment of peace we will remove from the kingdom all foreign-born soldiers,

cross-bow men, servants, and mercenaries who have come with horses and arms for the injury of the realm.

52. If anyone shall have been dispossessed or removed by us without legal judgment of his peers, from his lands, castles, franchises, or his right we will restore them to him immediately; and if contention arises about this, then it shall be done according to the judgment of the twenty-five barons, of whom mention is made below concerning the security of the peace. Concerning all those things, however, from which anyone has been removed or of which he has been deprived without legal judgment of his peers by King Henry our father, or by King Richard our brother, which we have in our hand, or which others hold, and which it is our duty to guarantee, we shall have respite till the usual term of crusaders; excepting those things about which the suit has been begun or the inquisition made by our writ before our assumption of the cross; when, however, we shall return from our journey, or if by chance we desist from the journey, we will immediately show full justice in regard to them.

53. We shall, moreover have the same respite and in the same manner about showing justice in regard to the forests which are to be disafforested or to remain forests, which Henry our father or Richard our brother made into forests; and concerning the custody of lands which are in the fief of another, custody of which we have until now had on account of a fief which anyone has held from us by military service; and concerning the abbeys which have been founded in fiefs of others than ourselves, in which the lord of the fee has asserted for himself a right; and when we return or if we should desist from our journey we will immediately show full justice to those complaining in regard to them.

54. No one shall be seized nor imprisoned on the appeal of a woman concerning the death of anyone except her husband.

55. All fines which have been imposed unjustly and against the law of the land, and all penalties imposed unjustly and against the law of the land are altogether excused, or will be on the judgment of the twenty-five barons of whom mention is made below in connection with the security of the peace, or on the judgment of the majority of them, along with the aforesaid Stephen, archbishop of Canterbury, if he is able to be present, and others whom he may wish to call for this purpose along with him. And if he should not be able to be present, nevertheless the business shall go on without him,

provided that if any one or more of the aforesaid twenty-five barons are in a similar suit they should be removed as far as this particular judgment goes, and others who shall be chosen and put upon oath, by the remainder of the twenty-five shall be substituted for them for this purpose.

56. If we have dispossessed or removed any Welshmen from their lands, or franchises, or other things, without legal judgment of their peers, in England, or in Wales, they shall be immediately returned to them; and if a dispute shall have arisen over this, then it shall be settled in the borderland by judgment of their peers, concerning holdings of England according to the law of England, concerning holdings of Wales according to the law of Wales, and concerning holdings of the borderland according to the law of the borderland. The Welsh shall do the same to us and ours.

57. Concerning all these things, however, from which any one of the Welsh shall have been removed or dispossessed without legal judgment of his peers, by King Henry our father, or King Richard our brother, which we hold in our hands, or which others hold, and we are bound to warrant to them, we shall have respite till the usual period of crusaders, those being excepted about which suit was begun or inquisition made by our command before our assumption of the cross. When, however, we shall return or if by chance we shall desist from our journey, we will show full justice to them immediately, according to the laws of the Welsh and the aforesaid parts.

58. We will give back the son of Lewellyn immediately, and all the hostages from Wales and the charters which had been liberated to us as a security for peace.

59. We will act toward Alexander, king of the Scots, concerning the return of his sisters and his hostages, and concerning his franchises and his right, according to the manner in which we shall act toward our other barons of England, unless it ought to be otherwise by the charters which we hold from William his father, formerly king of the Scots, and this shall be by the judgment of his peers in our court.

60. Moreover, all those customs and franchises mentioned above which we have conceded in our kingdom, and which are to be fulfilled, as far as pertains to us, in respect to our men; all men of our kingdom as well clergy as laymen, shall observe as far as pertains to them, in respect to their men.

61. Since, moreover, for the sake of God, and for the improvement of our kingdom, and for the better quieting of

the hostility sprung up lately between us and our barons, we have made all these concessions; wishing them to enjoy these in a complete and firm stability forever, we make and concede to them the security described below; that is to say, that they shall elect twenty-five barons of the kingdom, whom they will, who ought with all their power to observe, hold, and cause to be observed, the peace and liberties which we have conceded to them, and by this our present charter confirmed to them; in this manner, that if we or our justiciar, or our bailiffs, or any one of our servants shall have done wrong in any way toward any one, or shall have transgressed any of the articles of peace or security; and the wrong shall have been shown to four barons of the aforesaid twenty-five barons, let those four barons come to us or to our justiciar, if we are out of the kingdom, laying before us the transgression, and let them ask that we cause that transgression to be corrected without delay. And if we shall not have corrected the transgression, or if we shall be out of the kingdom, if our justiciar shall not have corrected it within a period of forty days, counting from the time in which it has been shown to us or to our justiciar, if we are out of the kingdom; the aforesaid four barons shall refer the matter to the remainder of the twenty-five barons, and let these twenty-five barons with the whole community of the country distress and injure us in every way they can; that is to say by the seizure of our castles, lands, possessions, and in such other ways as they can until it shall have been corrected according to their judgment, saving our person and that of our queen, and those of our children; and when the correction has been made, let them devote themselves to us as they did before. And let whoever in the country wishes take an oath that in all the above-mentioned measures he will obey the orders of the aforesaid twenty-five barons, and that he will injure us as far as he is able with them, and we give permission to swear publicly and freely to each one who wishes to swear, and no one will we ever forbid to swear. All those, moreover, in the country who of themselves and their own will are unwilling to take an oath to the twenty-five barons as to distressing and injuring us along with them, we will compel to take the oath by our mandate, as before said. And if any one of the twenty-five barons shall have died or departed from the land or shall in any other way be prevented from taking the above-mentioned action, let the remainder of the aforesaid twenty-five barons

choose another in his place, according to their judgment, who shall take an oath in the same way as the others. In all those things, moreover, which are committed to those five and twenty barons to carry out, if perhaps the twenty-five are present, and some disagreement arises among them about something, or if any of them when they have been summoned are not willing or are not able to be present, let that be considered valid and firm which the greater part of those who are present arrange or command, just as if the whole twenty-five had agreed in this; and let the aforesaid twenty-five swear that they will observe faithfully all the things which are said above, and with all their ability cause them to be observed. And we will obtain nothing from anyone, either by ourselves or by another by which any of these concessions and liberties shall be revoked or diminished; and if any such thing shall have been obtained, let it be invalid and void, and we will never use it by ourselves or by another.

62. And all ill-will, grudges, and anger sprung up between us and our men, clergy and laymen, from the time of the dispute, we have fully renounced and pardoned to all. Moreover, all transgressions committed on account of this dispute, from Easter in the sixteenth year of our reign till the restoration of peace, we have fully remitted to all, clergy and laymen, and as far as pertains to us, fully pardoned. And moreover we have caused to be made for them testimonial letters-patent of lord Stephen, archbishop of Canterbury, lord Henry, archbishop of Dublin, and of the aforesaid bishops and of master Pandulf, in respect to that security and the concession named above.

Wherefore we will and firmly command that the Church of England shall be free, and that the men of our kingdom shall have and hold all the aforesaid liberties, rights and concessions, well and peacefully, freely and quietly, fully and completely, for themselves and their heirs, from us and our heirs, in all things and places, forever, as before said. It has been sworn, moreover, as well on our part as on the part of the barons, that all these things spoken of above shall be observed in good faith and without any evil intent. Witness the above named and many others. Given by our hand in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign.

CHAPTER XI

THE GROWTH OF LAW

81. Summonses to Parliament

Lords' Report on the Dignity of a Peer

The custom of summoning the great lords to national councils existed in Anglo-Saxon times. Not until after the Conquest, however, did the custom grow into a right, which in the Angevin Period gave rank to him who was summoned. The great councils, which later grew into the Parliament, were attended — certainly as to the Early Angevin, probably as to the Norman Period — only by the great nobles. In the time of the Charter, however, we find the lesser nobles desirous of the right of attendance, and later even representatives of the commonality — though in a limited degree — were given a place in these gatherings, when money was to be exacted from them. The following forms respectively represent a summons to a great noble to attend the formation of a representative Parliament, and to each of the three estates for the Model Parliament of 1295.

A WRIT OF SUMMONS OF THE LORDS, SPIRITUAL AND TEMPORAL,
TO A PARLIAMENT, 26 HENRY III.

(1242)

The king to the venerable father in Christ, W. archbishop of York, greeting. We command and require you, as you love us and our honour, and your own equally, and in the faith by which you are held to us, that laying aside all other business, you be with us at London, fifteen days after St. Hilary's day, to discuss with us, along with the rest of our magnates whom we have similarly caused to be convoked, our arduous affairs and those things which more especially touch our state and that of our whole kingdom; and that you in no way fail to perform this. Witness the king at Windsor, Dec. 14th.

In the same way it is written to all the bishops, abbots, earls, and barons.

SUMMONS OF A BISHOP TO PARLIAMENT

(1295)

The king to the venerable father in Christ, Robert, by the same grace Archbishop of Canterbury, primate of all Eng-

land, greeting. As a most just law, established by the careful providence of sacred princes, exhorts and decrees that what affects all, by all should be approved, so also, very evidently should common danger be met by means provided in common. You know sufficiently well, and it is now, as we believe, divulged through all regions of the world, how the king of France fraudulently and craftily deprives us of our land of Gascony, by withholding it unjustly from us. Now, however, not satisfied with the before-mentioned fraud and injustice, having gathered together for the conquest of our kingdom a very great fleet, and an abounding multitude of warriors, with which he has made a hostile attack on our kingdom and the inhabitants of the same kingdom, he now proposes to destroy the English language altogether from the earth, if his power should correspond to the detestable proposition of the contemplated injustice, which God forbid. Because, therefore, darts seen beforehand do less injury, and your interest especially, as that of other fellow-citizens of the same realm, is concerned in this affair, we command you, strictly enjoining you in the fidelity and love in which you are bound to us, that on the Lord's day next after the feast of St. Martin, in the approaching winter, you be present in person at Westminster, citing beforehand the dean and chapter of your church, the archdeacons and all the clergy of your diocese, causing the same dean and archdeacons in their own persons, and the said chapter by one suitable proctor, and the said clergy by two, to be present along with you, having full and sufficient power from the same chapter and clergy, for considering, ordaining and providing, along with us and with the rest of the prelates and principal men and other inhabitants of our kingdom, how the dangers and threatened evils of this kind are to be met. Witness the king
 Wingham, the thirtieth day of September.

Identical summons were sent out to the two archbishops and eighteen bishops, and, with the omission of the last paragraph, to seventy abbots.

SUMMONS OF A BARON TO PARLIAMENT

(1295)

The king to his beloved and faithful relative, Edmund, Earl of Cornwall, greeting. Because we wish to have a consultation and meeting with you and with the rest of the principal men of our kingdom, as to provision for remedies against the dangers which in these days are threatening our

whole kingdom; we command you, strictly enjoining you in the fidelity and love in which you are bound to us, that on the Lord's day next after the feast of St. Martin, in the approaching winter, you be present in person at Westminster, for considering, ordaining and doing along with us and with the prelates, and the rest of the principal men and other inhabitants of our kingdom, as may be necessary for meeting dangers of this kind.

Witness the king at Canterbury, the first of October.

Similar summons were sent to seven earls and forty-one barons.

(Translations and Reprints, ed. cit.)

SUMMONS OF REPRESENTATIVES OF SHIRES AND TOWNS TO PARLIAMENT

(1295)

The king to the sheriff of Northamptonshire. Since we intend to have a consultation and meeting with the earls, barons and other principal men of our kingdom with regard to providing remedies against the dangers which are in these days threatening the same kingdom; and on that account have commanded them to be with us on the Lord's day next after the feast of St. Martin in the approaching winter, at Westminster, to consider, ordain, and do as may be necessary for the avoidance of these dangers; we strictly require you to cause two knights from the aforesaid county, two citizens from each city in the same county, and two burgesses from each borough, of those who are especially discreet and capable of labouring, to be elected without delay, and to cause them to come to us at the aforesaid time and place.

Moreover, the said knights are to have full and sufficient power for themselves and for the community of the aforesaid county, and the said citizens and burgesses for themselves and the communities of the aforesaid cities and boroughs separately, then and there for doing what shall then be ordained according to the common counsel in the premises; so that the aforesaid business shall not remain unfinished in any way for defect of this power. And you shall have there the names of the knights, citizens and burgesses and this writ.

Witness the king at Canterbury on the third day of October.

Identical summons were sent to the sheriffs of each county.

(*Select Charters*, Stubbs, ed. cit.)

82. Confirmation of the Charters

(25 Edw. I, c. 1-7, 1297)

Statutes of the Realm

The Magna Charta was a rallying point for all those striving for relief from the despotic exercise of the kingly power. Again and again were the rights of the people violated, but need and fear of the people compelled the re-granting of the rights given in the Great Charter. These re-grants took the form of re-issues of the Charter, as in the Charter of Henry III., or of confirmations of its provisions, as the following Confirmation of the Charters.

1. Edward, by the grace of God king of England, lord of Ireland, and duke of Aquitaine to all those that shall see or hear these present letters, greeting: Know ye, that we to the honour of God and of holy church, and to the profit of our realm, have granted for us and our heirs that the Charter of Liberties and the Charter of the Forest, which were made by common assent of all the realm, in the time of King Henry our father, shall be kept in every point without breach. And we will that the same charters shall be sent under our seal, as well to our justices of the forest as to others, and to all sheriffs of shires, and to all our other officers and to all our cities throughout the realm, together with our writs, in which it shall be contained that they cause the aforesaid charters to be published, and declare to the people that we have confirmed them in all points; and that our justices, sheriffs, mayors, and other officials which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgment in all their points; that is to wit, the Great Charter as the common law and the Charter of the Forest according to the assize of the forest, for the weal of our people.

2. And we will that if any judgment be given from henceforth, contrary to the points of the charter aforesaid, by the justices or by any other of our officials that hold pleas before them, it shall be undone and holden for naught.

3. And we will that the same charters shall be sent under our seal to cathedral churches throughout our realm, there to remain, and shall be read before the people twice yearly.

4. And that archbishops and bishops shall pronounce the sentence of the greater excommunication against all those that by act, by aid, or by counsel, do contrary to the aforesaid charters, or that in any point break or undo them. And that the said curses be twice a year denounced and published by the prelates aforesaid. And if the same prelates or any of

them, be remiss in the denunciation of the said sentences, the archbishops of Canterbury and York for the time being, as is fitting, shall compel and constrain them to make that denunciation in form aforesaid.

5. And for as much as divers people of our realm are in fear that the aids and tasks which they have given to us beforetime towards our wars and other business, of their own grant and good-will, howsoever they were made, might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and so likewise the prises taken throughout the realm by our ministers; we have granted for us and our heirs, that we shall not draw such aids, tasks, nor prises, into a custom, for anything that hath been done heretofore, be it by roll or any other precedent that may be found.

6. Moreover we have granted for us and our heirs, as well to archbishops, bishops, abbots, priors, and other folk of holy church, as also to earls, barons, and to all the commonalty of the land, that for no cause from henceforth will we take such manner of aids, tasks, nor prises, but by the common consent of the realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed.

7. And for as much as the greater part of the commonalty of the realm find themselves sore grieved with the male-tolt of wools, that is to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release the same; we, at their requests, have fully released it, and have granted for us and our heirs that we shall not take such thing or any other without their common consent and good-will, saving to us and our heirs the custom of wools, skins, and leather granted before by the commonalty aforesaid. In witness of which things we have caused to be issued these our letters patent. Witness Edward, our son, at London, the tenth day of October, the five and twentieth year of our reign.

And be it remembered that this same charter in the same terms, word for word, was sealed in Flanders under the king's great seal, that is to say at Ghent, the fifth day of November in the twenty-fifth year of the reign of our aforesaid lord the king, and sent into England.

(Edited from *Statutes of the Realm*, I, 123, 124.)

In regard to the manner of editing this and all other selections from *Statutes of Realm*, see the Preface to the second edition of the *Source-Book of English History*.

83. Ecclesiastical Sanction of the Confirmation of the Charters

(1297)

Book of Rights

The intimate connection between Church and State in the thirteenth century is well shown by the following selection which furnishes the text of the endorsement by the ecclesiastical authority of the act of the king.

In the name of the Father, of the Son, and of the Holy Ghost, Amen. Whereas our sovereign lord the King, to the honour of God and of holy church, and for the common profit of the realm, hath granted for him and his heirs for ever these articles abovewritten. We, Robert archbishop of Canterbury, primate of all England, admonish all those of the realm of England once, twice, and thrice — because that shortness of time will not suffer more delay, — that all and every of them of what estate soever they be, as much as in them is, do uphold and maintain these things granted by our sovereign lord the King in all points; and that they or none of them do resist or break, or in any manner hereafter procure, counsel, or any ways assent to resist or break them, or go about it, by word or deed, openly or privily, by any manner of pretence of colour; and we the foresaid archbishop, by our authority in this writing expressed, do excommunicate all such, and them from the body of our Lord Jesus Christ, and from all the company of heaven, and from all the sacraments of holy church, do dissever. *Fiat! Fiat! Amen!*

(Trans. Edgar Taylor in *Book of Rights*, Lond. 1831. p. 51.)

84. De Tallagio Non Concedendo

(25 EDW. I, 1297)

Statutes of the Realm

The *Statutum de Tallagio non Concedendo* was originally an unauthorized interpretation of the *Confirmatio Chartarum*. It was not a statute, though afterward cast in that form. Its principles were of such importance in the struggles against illegal taxation that it early acquired by sufferance a place in the collections of laws. In 1628 it was quoted as a statute in the Petition of Right (which embodied its principles), and in 1637 it was judicially declared a statute.

“A STATUTE CONCERNING CERTAIN LIBERTIES GRANTED BY
THE KING TO HIS COMMONS”

1. No tallage or aid shall be laid or levied by us or our heirs in our realm, without the good-will and assent of the archbishops, bishops, and other prelates, earls, barons, knights, burgesses, and other freemen of the land.

2. No officer of ours, or of our heirs, shall take corn, wool, leather, or any other goods, of any manner of person, without the good-will and consent of the party to whom the goods belonged.

3. Nothing from henceforth shall be taken of sacks of wool in the name or by occasion of male-tent.

4. Also we will and grant for us and our heirs, that all clerks and laymen of our realm shall have all their laws, liberties, and free customs, as freely and wholly as they were used to have the same at any time when they had them best and most fully: And if any statutes have been made by us or our ancestors, or any customs brought in contrary to them, or to any manner of article contained in this present charter, we will and grant, that such manner of statutes and customs shall be void and frustrate for evermore.

5. [Pardon granted to certain offenders.]

6. And for the more assurance of this thing, we will and grant for ourselves and our heirs, that all archbishops and bishops of England for ever, in their cathedral churches this present charter being first read, shall excommunicate, and publically in the several parish churches of their diocese, shall cause to be excommunicated, or to be declared excommunicated twice in the year all those that willingly do or procure to be done any thing contrary to the tenor, force, and effect of this present charter in any point or article.

In witness whereof our seal is put to this present charter, together with the seals of the archbishops, bishops, earls, barons, and others: who voluntarily have sworn that, as much as in them is, they will observe the tenor of this present charter in all and singular its articles, and will afford their faithful aid and counsel to its observance for evermore.

(Ed. from *Statutes of the Realm*, I, 125.)

85. The Law of Mortmain

Statutes of the Realm

The Statute of Mortmain was the first step taken by Edward I. in the assertion of the right of the State to control the Church when civil interests were affected by ecclesiastical action. It "stands to ecclesiastical tenures in the same position that the statute *Quia Emptores* stands to lay tenures." The statute given is the first, and is typical of a series, all aimed at the practice by which lands were transferred to the Church and removed from the control of lords who claimed the feudal rights, and from the possession of those to whom the lands would naturally have descended.

STATUTUM DE RELIGIOSIS

(7 EDW. I, 1279)

Where of late it was provided, that religious men should not enter into the fees of any without licence and will of the chief lords, of whom such fees be holden immediately; and whereas religious men have notwithstanding entered as well into their own fees, as into the fees of other men, appropriating and buying them, and sometime receiving them of the gift of others, whereby the services that are due of such fees, and which at the beginning were provided for defence of the realm, are wrongfully withdrawn, and the chief lords do lose their escheats of the same: We, therefore, to the profit of our realm, intending to provide convenient remedy, by the advice of our prelates, earls, barons, and other our lieges, being of our council, have provided, established, and ordained, that no person, religious or other, whatsoever he be, do presume to buy or sell any lands or tenements, or under the colour of gift or lease, or by reason of any other title, whatsoever it be, to receive from any man, or by any other craft or device to appropriate to himself, lands or tenements, under pain of forfeiture of the same, whereby such lands or tenements may anywise come into Mortmain.

We have provided also, that if any person, religious or other, do presume either by craft or device to offend against this statute, it shall be lawful to us, and other immediate chief lords of the fee so aliened, to enter therein within a year from the time of such alienation, and to hold it in fee and inheritance. And if the immediate chief lord be negligent, and will not enter into such fee within the year, then it shall be lawful to the next immediate chief lord of the same fee to enter into the same within half a year next following, and to hold it as before is said; and so every immediate chief lord may enter into such fee, if the next immediate lord be negligent in entering into the same fee, as is aforesaid. And if all such chief lords of such fees, being of full age, within the four seas, and out of prison, be negligent or slack in this behalf, we immediately after the year accomplished, from the time that such purchases, gifts, or other appropriations happen to be made, shall take such lands and tenements into our hand, and shall infeof others therein, by certain services to be done for the same to us for the defence of our realm; saving to the chief lords of the same fees their wards and escheats, and other services to them due and accustomed.

And therefore we command you, that ye cause the foresaid statute to be read before you, and from henceforth to be kept firmly and observed. Witness my self at Westminster the fifteenth day of November, the seventh year of our reign.

(Ed. from *Statutes of the Realm*, I, 51.)

86. Freedom of Parliament

(7 EDW. I., 1279)

Book of Rights

This provision is in line with the many designed to protect the commonalty when exercising their political rights. From the days of the Saxon Kings this protection was constant in theory and usually in practice.

To all Parliaments and Treatises men shall come without Force and Arms.

Edward by the grace of God, King of England, Lord of Ireland, and Duke of Aquitaine; to the justices of his bench sendeth greeting. Whereas of late before certain persons deputed to treat upon sundry debates had between us and certain great men of our realm, amongst other things it was accorded, in our next parliament after, provision should be made by us and the common assent of the prelates, earls, and barons, that in all parliaments, treatises, and other assemblies which should be made in the realm of England for ever, every man shall come without all force and armour, well and peaceably to the honour of us and the peace of our realm. And now in our next parliament at Westminster after the said treatise, the prelates, earls, barons, and the commonalty of our realm, there assembled to take advice of this business, have said to us that it belongeth and our part is, through our royal seigniorie, straightly to prohibit force of armour and all other force against our peace, at all times when it shall please us, and to punish them which shall do contrary, according to our laws and usages of our realm; and hereunto they are bound to aid us as their sovereign lord at all seasons when need shall be. We command you, that ye cause these things to be read afore you in the said bench, and there to be enrolled.

(*Book of Rights*, ed. cit., p. 59.)

87. Taxation of Religious Houses

(35 EDW. I., 1306-7)

Statutes of the Realm

The statute *De Asportatis Religiosorum*, also known as the statutum Carlisli, was the first of a series of anti-papal statutes which extended even beyond the close of the Stuart period. The

texts of the most important of these have been translated and are printed in full (Nos. 85, 90, 92, 93, 107, 108, 111), that the student may himself trace the claim of ecclesiastical independence put forward by English kings. The object of the following statute was to prevent the taxation of religious houses by non-resident superiors.

STATUTUM DE ASPORTATIS RELIGIOSORUM

In the Parliament held at Carlisle, on the Octave of St. Hilary
(A.D. 1306-7)

Of late it came to the knowledge of our lord the king, by the grievous complaint of the honourable persons, lords, and other noblemen of his realm, that whereas monasteries, priories, and other religious houses had been founded to the honour and glory of God, and the advancement of the Holy Church, by the king and his progenitors, and by the said noblemen and their ancestors; and a very great portion of lands and tenements had been given by them to the said monasteries, priories, and houses, and the religious men serving God in them, to the intent that as well clerks as laymen might be admitted in such monasteries and religious houses, according to their sufficient ability, and that sick and feeble men might be maintained, hospitality, almsgiving, and other charitable deeds might be exercised and done, and in them prayers might be said for the souls of the said founders and their heirs; the abbots, priors, and governors of the said houses, and certain aliens their superiors, as the abbots and priors of the orders of *Cluniacenses*, *Cistercienses*, and *Premonstratenses*, and of St. Augustine, and St. Benedict, and many more of other religion and order, have, of late, appointed to be made and at their own pleasure ordained divers unwonted, heavy and importable tallages, payments, and impositions upon every of the said monasteries and houses in subjection unto them in England, Ireland, Scotland, and Wales, without the privity of our lord the king and his nobility, contrary to the laws and customs of the said realm; whereby it happens that numbers of religious persons, and other servants in the said houses and religious places being oppressed by such tallages, payments, and impositions, the service of God is diminished, and alms are withdrawn from the poor, the sick, and feeble, and the healths of the living and the souls of the dead be miserably defrauded, hospitality, almsgiving, and other deeds of charity, do cease; and so that which in times past was given to pious uses, and to the increase of the service

of God, or to charity, is now converted to an evil payment: From whence, beside what is before mentioned, there groweth great scandal to the people, and infinite losses are well known to have ensued, to the disheritance of the said founders and their heirs, and are yet likely to ensue, unless speedy and sufficient remedy be provided to redress so many and grievous detriments:

Our said lord the king, therefore, considering that it would be very prejudicial to him and his people if he should any longer suffer such great losses and injuries to be winked at, and thereupon being willing to maintain and defend the monasteries, priories, and other religious houses erected in his kingdom, and in the lands subject to his dominion, according to the will and pious wishes of the founders, and from henceforth to provide sufficient remedy to reform such oppressions, as he is bound, by the counsel of his earls, barons, great men, and other the nobles and the commonalty of his realm, in his parliament holden at Westminster, on the Sunday next after the feast of St. Matthias the Apostle, in the three-and-thirtieth year of his reign, ordained and enacted as follows:

“That no abbot, prior, master, warden, nor any other religious person, of whatsoever condition, state, or religion he be, appointed under his power or jurisdiction, shall by himself, or by merchants or others, secretly or openly, by any art or device, carry or send, or by any means cause to be carried, any tax imposed by their superiors, abbots, priors, masters or wardens of religious houses or places, or in any way assessed among themselves, out of his kingdom and dominion, under the name of a rent, tallage, tribute, or any kind of imposition, or otherwise in the name of exchange, sale, loan, or other contract howsoever it may be termed; neither shall himself depart into any other country for visitation or, upon any other colour, by that means to carry the goods of their monasteries and houses out of the kingdom and dominion aforesaid. And if any presume to offend this present statute, he shall be grievously punished according to the quality of his offence, and according to his contempt of the king's prohibition.

“Moreover, our said lord the king doth inhibit all and singular abbots, priors, masters and governors of religious houses and places, being aliens, to whose authority, subjection, and obedience, the houses of the same orders being in his kingdom and dominion be subject, that they do not at any

time hereafter impose, or by any means cause to be assessed, any tallages, payments, impositions, tributes, or other burdens whatsoever, upon any of the monasteries, priories, or other religious houses as aforesaid in subjection unto them; and this upon forfeiture of all that they have in their power, and can forfeit in future.

"And further, our lord the king hath ordained and established, that the abbots of the orders of *Cistercienses* and *Premonstratenses*, and other religious orders, whose seal hath heretofore been used to remain only in the custody of the abbot, and not of the convent, shall hereafter have a common seal, and shall deposit the same in the custody of the prior of the monastery or house, and four of the most worthy and discreet men of the convent of the same house, to be kept under the private seal of the abbot of the same house; so that the abbot or prior of the house which he doth govern, shall not be able of himself to confirm any contract or obligation, as heretofore he hath been used to do. And if it happen hereafter that any writings obligatory of donations, purchases, sales, alienations, or of any other contracts, be found sealed with any other seal than such a common seal, kept as is aforesaid, they shall be adjudged void and of no force in law.

"But it is not the meaning of our lord the king to exclude the abbots, priors, and other religious aliens, by the ordinance and statutes aforesaid, from executing their office of visitation in his kingdom and dominion; but that they may visit at their pleasure, by themselves or others, the monasteries and other places in his kingdom and dominion aforesaid in subjection unto them, according to the duty of their office, in those things only that belong to the regular observance and the discipline of their order. Provided, that they which shall execute this office of visitation, shall carry, or cause to be carried out of the kingdom and dominion aforesaid, none of the goods or things of such monasteries, priories, and houses, saving only their reasonable and competent charges.

And though the proclamation and publication of the ordinance and statutes aforesaid was stayed in suspense, from the parliament last passed, until this present parliament holden at Carlisle in the octaves of Saint Hilary, in the five-and-thirtieth year of the reign of our said lord King Edward, for certain causes, and to the intent they might proceed with greater deliberation and advice; our lord the king, after full deliberation and conference had with the

earls, barons, lords, and other the nobles and the commonalty of his realm, touching the premisses, by their unanimous consent and agreement hath ordained and enacted, that the ordinance and statutes aforesaid, under the manner, form, and conditions aforesaid, from the first day of May next ensuing, shall thenceforth be inviolably observed and in force for ever, and the offenders of them shall thereafter be punished as is aforesaid.

(Edited from *Statutes of the Realm*, I, 150.)

88. The Statute of "Quia Emptores"

(18 EDW. I., 1289-90)

Statutes at Large

The feudal lord enjoyed many profitable rights in the property held by another under him. He obtained certain sums from the heir who was of full age at the death of his father, and also profits from the estates of minors and from their marriages. Not only was his ransom paid, if he were taken prisoner, but when his son became a knight or his eldest daughter married, the expenses of the ceremonies were borne by his tenants. Besides all this, on certain contingencies the entire estate of his vassals became his. Prior to the eighteenth year of the reign of Edward I., these rights had been seriously impaired by the practice of subinfeudation, or subdivision of holdings. To exemplify this, let us suppose that A. held lands of B., and owed him the above-mentioned rights. If A. sold part of his lands to C., the latter would owe rights to A., and not to B. Thus B. would be deprived of his rights over the lands sold to C. This was a direct loss to the lord, and the statute of *Quia Emptores* was passed to prevent its occurrence. By the provisions of this enactment, the transfer could still be made, but C. would hold of B. instead of A., and would owe the rights of the land to the former.

THE STATUTE OF WESTMINSTER THE THIRD: OR QUIA EMPTORES TERRARUM

CAP. I

Purchasers shall hold of the chief lord, and not of the Feoffor

Forasmuch as purchasers of lands and tenements of the fees of great men and others, have many times heretofore entered into their fees, to the prejudice of the lords, the freeholders of such great men and others having sold such lands and tenements to be holden in fee by such purchasers and their heirs, of the feoffors, and not of the chief lords of the fees, whereby the same chief lords have many times lost their escheats, marriages, and wardships of lands and tenements

belonging to their fees; which thing seemed very hard and extreme unto those great men and other lords, and moreover in this case manifest disheritance: Our lord the king, in his parliament at Westminster, after Easter, the eighteenth year of his reign, that is to wit, in the quinzime of Saint John Baptist, at the instance of the great men of his realm, hath granted, provided, and ordained, that from henceforth it shall be lawful to every freeman to sell at his own pleasure his lands and tenements, or part thereof: so nevertheless that the feoffee shall hold the same lands or tenements of the same chief lord of the fee, and by the same services and customs as his feoffor held them before.

CAP. II

If a Tenant sell Part of his Land, the Services shall be apportioned

And if he sell any part of such his lands or tenements to any, the feoffee shall hold that immediately of the chief lord, and shall be forthwith charged with so much service as pertaineth, or ought to pertain to the said chief lord for such part, according to the quantity of the land or tenement so sold. And so in this case for the same part of the service shall remain to the lord, to be taken by the hands of the feoffee, for the which he ought to be attendant and answerable to the same chief lord, according to the quantity of the land or tenement sold, for the parcel of the service so due.

CAP. III

No such Feoffment shall be made to assure Land in Mortmain

And it is to be understood, that by the said sales or purchases of lands or tenements or any part thereof, such lands or tenements shall in no wise come into Mortmain, either in part or in whole, any way by craft or device, contrary to the form of the statute made thereupon of late. And it is to be understood, that this statute extendeth only to lands sold to be holden in fee simple; and that it extendeth to the time coming, and it shall begin to take effect at the feast of Saint Andrew the Apostle next coming.

Given the eighteenth year of the reign of King Edward, son of King Henry.

89. Coronation Oath of Edward II.

(1307)

Statutes of the Realm

The oath of Edward II. is interesting in that it contains the completed fourfold division which was for centuries to mark the promise of the king upon assuming office. Compare the coronation oaths of William I. (No. 45) and of James I. (No. 144).

CORONATION OATH OF EDWARD II.

[*Archbishop.*] Sire, will you grant and observe, and by your oath confirm to the people of England the laws and customs granted to them by the ancient kings of England, your predecessors, just and devoted to God; and especially the laws and customs and franchises granted to the clergy and to the people by the glorious king, Saint Edward, your predecessor?

[*King.*] I grant them and promise them.

[*Archbishop.*] Sire, will you keep toward God and holy church, and clergy and people, entire peace and concord in God, according to your power?

[*King.*] I will keep them.

[*Archbishop.*] Sire, will you cause to be made in all your judgments equal and right justice and judgment, in mercy and truth, according to your power?

[*King.*] I will do it.

[*Archbishop.*] Sire, do you grant that the just laws and customs will be observed which the commonalty of your realm have chosen, and do you promise to protect and enforce them to the honour of God, according to your power?

[*King.*] I grant and promise it.

(Ed. from *Statutes of the Realm*, I, 168.)

90. A Statute of Provisors

(25 EDW. III, s. 5, c. 22, 1352)

Statutes of the Realm

The Statute *De Asportatis Religiosorum*, passed in 1306-7, was followed by a series of anti-papal enactments, the first of which to become effective, the Statute of Provisors, is given below.

Also because that some do purchase at the court of Rome provisions to have abbeys and priories in England, in destruction of the realm, and of holy religion; it is accorded and assented, that every man that purchaseth such provisions of

abbeys or priories, that he and his executors and procurators which do sue and make execution of such provisions, shall be out of the protection of our lord the king; and that a man may do with him as an enemy of the king and the realm; and he that doth anything against such provisors in body or in goods, or in other possessions, shall be excused against all people, and shall never be impeached nor grieved for the same at any man's suit.

(Ed. from *Statutes of the Realm*, I, 323, 324.)

91. First Statute of Treasons

(25 EDW. III., st. 5, c. 2, 1352)

Statutes of the Realm

The crime of treason has always been visited by most severe punishment, but prior to the twenty-fifth year of the reign of Edward II. these punishments were not fixed by statute. Neither was the crime of treason accurately defined and determined. The repeated demand that this crime should be defined and limits set to its punishment passed unheeded until the following statute was passed during the reign of Edward III. The seven heads of treason enumerated by this Act formed the basis of all subsequent legislation on the subject.

A STATUTE OF WESTMINSTER

CAP. II

A Declaration which Offences shall be adjudged Treason.

Also, whereas divers opinions have been before this time in what case treason shall be said, and in what not; the king at the request of the lords and of the commons, hath made the declaration following, that is to say; when a man doth compass or imagine the death of our lord the king; or of our lady his consort, or of their eldest son and heir; or if a man do violate the king's consort, or the king's eldest daughter unmarried, or the wife of the king's eldest son and heir: and if a man do levy war against our said lord the king in his realm or be adherent to the enemies of our lord the king in his realm, giving to them aid and comfort in the realm, or elsewhere; and thereof be provably attainted of open deed by the people of their condition. And if a man counterfeit the king's great or privy seal, or his money; and if a man bring false money into this realm, counterfeit to the money of England, as the money called *Lushburgh*, or other like to the said money of England, knowing the money to be false, to merchandise, or make payment, in deceit of our said lord the king and of his people: And if a man slay the chancellor,

treasurer, or the king's justices of the one bench or the other, justices in eyre, or of assise and all other justices assigned to hear and determine, being in their places, doing their offices. And it is to be understood, that in the cases above rehearsed, that ought to be judged treason which extends to our lord the king, and his royal majesty: And of such manner of treason the forfeiture of the escheats pertaineth to our sovereign lord the king as well of the lands and tenements holden of other as of himself.

And moreover there is another manner of treason, that is to say, when a servant slayeth his master, or a wife slayeth her husband, or when a man, secular or religious, slayeth his prelate, to whom he oweth faith and obedience; and such manner of treason giveth forfeiture of the escheats to every lord of his own fee.

And because many other cases of like treason may happen in time to come, which a man cannot think nor declare at this present time; It is accorded, that if any other case, supposed treason, which is not above specified, doth happen anew before any justices, the justices shall tarry without going to judgment of treason, till the cause be shown before the king and his parliament, and it be declared whether it ought to be judged treason or other felony.

And if perchance any man of this realm ride armed, openly or secretly, with men of arms against any other, to slay him, or rob him, or to take and retain him till he hath made fine or ransom for to have his deliverance, it is not the mind of the king nor his council, that in such case it shall be judged treason; but it shall be judged felony or trespass, according to the law of the land of old time used, and according as the case requireth. And if in such case, or other like, before this time any justice have judged treason, and for this cause the lands and tenements have come into the king's hands as forfeit, the chief lords of the fee shall have their escheats of the tenements holden of them, whether that the same tenements be in the king's hands, or in others, by gift or in other manner.

Saving always to our lord the king the year, and the waste and the other forfeitures of chattels, which pertain to him in the cases above named: and that Writs of *Scire facias* be granted in such case against the land-tenants without other original, and without allowing the king's protection in the said suit; and that of the lands which be in the king's hands, Writs be granted to the sheriffs of the coun-

ties where the lands be, to deliver them out of the king's hands without delay.

(Ed. from *Statutes of the Realm*, I, 320, 321.)

92. Second Statute of Provisors

(27 EDW. III., s. 1, 1353)

Statutes of the Realm

The Statute of Provisors of 1351 was followed by that of 1353. This latter had the same special purposes of preventing the papal court from compelling the attendance of Englishmen in those cases where that court claimed jurisdiction and of strengthening the power of the royal courts. The opening words of the statute show the demand which caused its promulgation.

A STATUTE OF PROVISORS

CAP. I

Præmunire for suing in a Foreign Realm, or Impcaching of Judgment given

First, because it is showed to our said lord the king, by the grievous and clamorous complaints of the great men and commons aforesaid, how that divers of the people be, and have been drawn out of the realm to answer of things, whereof the cognizance pertaineth to the king's Court; and also that the judgments given in the same court be impeached in another's court, in prejudice and disherison of our lord the king, and of his crown, and of all the people of his said realm, and to the undoing and destruction of the common law of the same realm at all times used: Whereupon, good deliberation being had with the great men and other of his said council, it is assented and accorded by our said lord the king, and the great men and commons aforesaid, that all the people of the king's ligeance, of what condition soever they may be, which shall draw any out of the realm, in plea whereof the cognizance pertaineth to the king's court, or of things whereof judgments be given in the king's court, or which do sue in the court of any other, to defeat or impeach the judgments given in the king's court, shall have a day, containing the space of two months, by warning to be made to them in the place where the possessions be, which be in debate, or otherwise where they have lands or other possessions, by the sheriff or other the king's minister, to appear before the king and his council, or in his chancery, or before the king's justices in his courts of the one bench or the other, or before other the king's justices which to the same shall be deputed, to answer in

their proper person to the king, of the contempt done in this behalf. And if they come not at the said day in their proper person to be at the law, they, their procurators, attornies, executors, notaries, and maintainers, shall from that day forth be put out of the king's protection, and their lands, goods, and chattels forfeit to the king, and their bodies, wheresoever they may be found, shall be taken and imprisoned, and ransomed at the king's will: And thereupon a writ shall be made to take them by their bodies, and to seize their lands, goods, and possessions, into the king's hands; and if it be returned, that they be not found, they shall be put in exigent, and outlawed.

Provided always, that whenever they come at any time before they be outlawed, and will yield them to the king's prison, to be judged by the law, and to receive that which the court shall award in this behalf, that they shall be thereto received; the forfeiture of lands, goods, and chattels abiding in force, if they do not yield them within the said two months, aforesaid.

(Ed. from *Statutes of the Realm*, I, 329, 330)

93. The Great Statute of Præmunire

(16 Rich. II., c. 5, 1393)

Statutes of the Realm

The contest between pope and king, begun in the reign of Edward I. and continued through successive reigns by means of the anti-papal statutes, was brought to a close by the action of Pope Boniface IV. in 1391. This prelate declared Acts of Parliament contravening papal rights to be void, and he denied the right of the Crown to present to benefices. The people of England rallied to the support of the cause of the king, and in the "Great Statute of Præmunire" (16 Rich. II., c. 5, 1392) every estate of the realm pledged its support to Richard II. This Statute of Præmunire was the most effective of the so-called anti-papal statutes.

Also, whereas the Commons of the realm in this present Parliament have showed to our redoubted lord the king, grievously complaining, that whereas our said lord the king and all his liege people ought of right and of old were wont to sue in the king's court, to recover their presentations to churches, prebends, and other benefices of Holy Church to the which they had right to present, the cognizance of plea of which presentment belongeth only to the king's court of the old right of his crown, used and approved in the time of all his progenitors, kings of England; and when judgment is given in the said court upon such a plea and presentment, the

archbishops, bishops, and other spiritual persons who have institution of such benefices within their jurisdiction be bound, and have made execution of such judgments by the king's commandments, of all the time aforesaid without interruption, for a lay person cannot make such execution, and also be bound of right to make execution of many other of the king's commandments, of which right the crown of England hath been peaceably seized, as well in the time of our lord the king that now is, as in the time of all his progenitors till this day.

But now of late divers processes be made by the Holy Father, the Pope, and censures of excommunication upon certain bishops of England, because they had made execution of such commandments, in open disherison of the said crown and destruction of the regalty of our said lord the king, his law, and all his realm, if remedy be not provided. And also it is said and a common clamour is made that the said Holy Father, the Pope, hath ordained and purposed to translate some prelates of the said realm, some out of the realm, and some from one bishopric into another within the said realm, without the assent and knowledge of our lord the king, and without the assent of the prelate who should be so translated, which prelates be very profitable and necessary to our said lord the king, and to all his realm; by which translations, if they should be suffered, the statutes of the realm would be defeated and made void; and his wise lieges of his council, without his assent and against his will carried away and removed out of his realm and the substance and treasure of the realm would be carried away, and so the said realm destitute as well of council as of substance, to the final destruction of the said realm; and so the crown of England which hath been so free at all times that it hath not been in subjection to earthly sovereign, but is immediately subject to God in all things touching the regalty of the same crown, and to none other, would be submitted to the Pope, and the laws and statutes of the realm by him defeated and annulled at his will, in perpetual destruction of the sovereignty of the king our lord, his crown, his regalty, and of all his realm, which God forbid.

And moreover, the Commons aforesaid say, that the said things so attempted be clearly against the king's crown and his regalty, used and approved in the time of all his progenitors; wherefore, they and all the liege commons of the said realm will stand with our said lord the king, and his

said crown and his regalty, in the cases aforesaid, and in all other cases attempted against him, his crown, and his regalty in all points, to live and to die; and moreover, they prayed our said lord the king, and required him, by way of justice, that he would examine all the lords in Parliament, as well spiritual as temporal severally, and all the estates of the Parliament, how they think of the cases aforesaid, which be so openly against the king's crown, and in derogation of his regalty, and how they will stand in the same cases with our lord the king in upholding the rights of the said crown and regalty. Whereupon, the lords temporal so demanded have answered every one by himself, that the cases aforesaid be clearly in derogation of the king's crown and of his regalty, as is notoriously, and hath been of all time known, and that they will stand with the same crown and regalty, in these cases specially, and in all other cases which shall be attempted against the said crown and regalty in all points, with all their power.

And, moreover, it was demanded of the lords spiritual there being, and the procurators of others being absent, their advice and will in these cases; which lords, that is to say, the archbishops, bishops, and other prelates, being in the said Parliament severally examined, making protestations that it is not their intention to deny nor to affirm that our Holy Father, the Pope, may not excommunicate bishops nor that he may not make translations of prelates according to the law of Holy Church; answered and said, that if any executions of processes made in the king's court, as before, be made by any, and censures of excommunications be made against any bishops of England, or any other of the king's liege people, for that they have made execution of such commandments, and that if any executions of such translations be made of any prelates of the same realm, which prelates be very profitable and necessary to our said lord the king, and to his said realm, or that his wise lieges of his council, without his assent and against his will, be removed and carried out of the realm, so that the substance and treasure of the realm may be destroyed, that the same is against the king and his crown, as is contained in the petition before named. And likewise the said procurators, every one by himself examined upon the said matters, have answered and said, in the name and for their lords, as the said bishops have said and answered; and that the said lords spiritual will and ought to stand with our lord the king in these cases loyally in main-

tenance of his crown, and in all other cases touching his crown and regalty, as they are bound by their allegiance. Whereupon, our said lord the king, with the assent aforesaid, and at the request of his said Commons, hath ordained and established; that if any do purchase or pursue, or cause to be purchased or pursued in the court of Rome or elsewhere any such translations, processes, and sentences of excommunications, bulls, instruments, or any other thing whatsoever which touches our lord the king, against him, his crown and regalty, or his realm, as is aforesaid, and those who bring the same within the realm, or receive them, or make thereof notification, or any other execution whatsoever, within the said realm or without; that they, their notaries, procurators, maintainers, abbetors, favorers, and counsellors, shall be put out of the protection of our said lord the king, and their lands and tenements, goods and chattels, shall be forfeited to our lord the king; and that they shall be attached by their bodies, if they may be found, and brought before the king and his council, there to answer to the cases aforesaid, or that process be made against them by *præmunire facias*, in manner as it is ordained in other statutes of provisors and others who sue in the court of any other, in derogation of the regalty of our lord the king.

(Ed. from *Statutes of the Realm*, II, 84.)

CHAPTER XII

THE BLACK DEATH

94. Spread of the Plague

Knighton

In the fourteenth century England had entered upon an era of progress. This was brought to an abrupt close by the scourge known to history as the Black Death. This pestilence swept away half of the entire population of the country. Its force was most severely expended upon the poor, whose sufferings were so great as to drive them well-nigh to desperation. Yet neither did the Death spare the rich. It invaded the royal palace, and the king's daughter fell a victim; it entered the cathedral town of Canterbury, and in one year three archbishops died. The Black Death had more than physical results; it led to political disturbances, it caused great agrarian changes, and it even impaired the work of the Church by decimating its priesthood and giving rise to murmurs against its teachings.

Then the grievous plague penetrated the sea-coasts from Southampton, and came to Bristol, and there almost the whole strength of the town died, struck as it were by sudden death; for there were few who kept their beds more than three days, or two days, or half a day; and after this the fell death broke forth on every side with the course of the sun. There died at Leicester in the small parish of S. Leonard more than 380; in the parish of Holy Cross more than 400; in the parish of S. Margaret of Leicester more than 700; and so in each parish a great number. Then the bishop of Lincoln sent through the whole bishopric, and gave general power to all and every priest, both regular and secular, to hear confessions, and absolve with full and entire episcopal authority except in matters of debt, in which case the dying man, if he could, should pay the debt while he lived, or others should certainly fulfil that duty from his property after his death. Likewise, the pope granted full remission of all sins to whoever was absolved in peril of death, and granted that this power should last till next Easter, and everyone could choose a confessor at his will,

In the same year there was a great plague of sheep everywhere in the realm, so that in one place there died in one pasturage more than 5,000 sheep, and so rotted that neither beast nor bird would touch them. And there were small prices for everything on account of the fear of death. For there were very few who cared about riches or anything else. For a man could have a horse, which before was worth 40s., for 6s. 8d., a fat ox for 4s., a cow for 12d., a heifer for 6d., a fat wether for 4d., a sheep for 3d., a lamb for 2d., a big pig for 5d., a stone of wool for 9d. Sheep and cattle went wandering over fields and through crops. and there was no one to go and drive or gather them, so that the number cannot be reckoned which perished in the ditches in every district, for lack of herdsman; for there was such a lack of servants that no one knew what he ought to do. In the following autumn no one could get a reaper for less than 8d. with his food, a mower for less than 12d. with his food. Wherefore many crops perished in the fields for want of some one to gather them; but in the pestilence year, as is above said of other things, there was such abundance of all kinds of corn that no one much troubled about it. The Scots, hearing of the cruel pestilence of the English, believed it had come to them from the avenging hand of God, and — as it was commonly reported in England — took for their oath when they wanted to swear: "By the foul death of England." But when the Scots, believing that the English were under the shadow of the dread vengeance of God, came together in the forest of Selkirk, with purpose to invade the whole realm of England, the fell mortality came upon them, and the sudden and awful cruelty of death winnowed them, so that about 5,000 died in a short time. Then the rest, some feeble, some strong, determined to return home, but the English followed and overtook them and killed many of them.

Master Thomas of Bradwardine was consecrated by the pope archbishop of Canterbury, and when he returned to England he came to London, but within two days was dead. He was famous beyond all other clerks in the whole of Christendom, especially in theology, but likewise in the other liberal sciences. At the same time priests were in such poverty everywhere that many churches were widowed and lacking the divine offices, masses, mattins, vespers, sacraments, and other rites. A man could scarcely get a chaplain under £10 or 10 marks to minister to a church. And

when a man could get a chaplain for 5 or 4 marks or even for 2 marks with his food when there was an abundance of priests before the pestilence, there was scarcely anyone now who was willing to accept a vicarage for £20 or 20 marks; but within a short time a very great multitude of those whose wives had died in the pestilence flocked into orders, of whom many were illiterate and little more than laymen, except so far as they knew how to read although they could not understand.

Meanwhile the king sent proclamation into all the counties that reapers and other labourers should not take more than they had been accustomed to take, under the penalty appointed by statute. But the labourers were so lifted up and obstinate that they would not listen to the king's command, but if anyone wished to have them he had to give them what they wanted, and either lose his fruit and crops, or satisfy the lofty and covetous wishes of the workmen. And when it was known to the king that they had not observed his command, and had given greater wages to the labourers, he levied heavy fines upon abbots, priors, knights, greater and lesser, and other great folk and small folk of the realm, of some 100s., of some 40s., of some 20s., from each according to what he could give. He took from each carucate of the realm 20s., and, notwithstanding this, a fifteenth. And afterwards the king had many labourers arrested, and sent them to prison; many withdrew themselves and went into the forests and woods; and those who were taken were heavily fined. Their ringleaders were made to swear that they would not take daily wages beyond the ancient custom, and then were freed from prison. And in like manner was done with the other craftsmen in the boroughs and villages... After the aforesaid pestilence, many buildings, great and small, fell into ruins in every city, borough, and village for lack of inhabitants, likewise many villages and hamlets became desolate, not a house being left in them, all having died who dwelt there; and it was probable that many such villages would never be inhabited. In the winter following there was such a want of servants in work of all kinds, that one would scarcely believe that in times past there had been such a lack... And so all necessities became so much dearer that what in times past had been worth a penny, was then worth 4d. or 5d.

Magnates and lesser lords of the realm who had tenants made abatements of the rent in order that the tenants should

not go away on account of the want of servants and the general dearness, some half the rent, some more, some less, some for two years, some for three, some for one year, according as they could agree with them. Likewise, those who received of their tenants daywork throughout the year, as is the practice with villeins, had to give them more leisure, and remit such works, and either entirely to free them, or give them an easier tenure at a small rent, so that the homes should not be everywhere irrecoverably ruined, and the land everywhere remain entirely uncultivated.

(From *Edward III and his Wars*, ed. W. J. Ashley, Lond. 1887. p. 122.)

95. The Statute of Labourers

Statutes of the Realm

The existing relations of master and servant were disorganized by the Black Death. The demand for labour so far exceeded the supply that wages rose to a figure hitherto unknown. Unable, or unwilling, to pay the wages demanded; alarmed at the new tendency of labour to seek, regardless of habitation, a market where the return was highest; exasperated by the disregard paid by the bondmen to the ties of villeinage, the employers sought and secured harsh and far-reaching legislation in control of labour. A specimen of these enactments is given below; for further examples, consult *Statutes of the Realm*, Vol. I.

Edward by the grace of God, etc., to the Reverend Father in Christ, William, by the same grace Archbishop of Canterbury, Primate of all England, greeting. Because a great part of the people, and especially of workmen and servants, have lately died of the pestilence, many seeing the necessities of masters and great scarcity of servants, will not serve unless they may receive excessive wages, and others preferring to beg in idleness rather than by labour to get their living; we, considering the grievous incommodities which of the lack especially of ploughmen and such labourers may hereafter come, have upon deliberation and treaty with the prelates and the nobles and learned men assisting us, with their unanimous counsel ordained:

That every man and woman of our realm of England, of what condition he be, free or bond, able in body, and within the age of sixty years, not living in merchandize, nor exercising any craft, nor having of his own whereof he may live, nor land of his own about whose tillage he may occupy himself, and not serving any other; if he be required to serve in suitable service, his estate considered, he shall be bound to serve him who shall so require him; and take

only the wages, livery, meed, or salary which were accustomed to be given in the places where he oweth to serve, the twentieth year of our reign of England, or five or six other common years next before. Provided always, that the lords be preferred before others in their bondmen or their land tenants, so in their service to be retained; so that, nevertheless, the said lords shall retain no more than be necessary for them. And if any such man or woman being so required to serve will not do the same, and that be proved by two true men before the sheriffs, or the bailiffs of our sovereign lord, the king, or the constables of the town where the same shall happen to be done, he shall immediately be taken by them or any of them, and committed to the next gaol, there to remain under strait keeping, till he find surety to serve in the form aforesaid.

If any reaper, mower, or other workman or servant, of what estate or condition he be, retained in any man's service, do depart from the said service without reasonable cause or license, before the term agreed, he shall have pain of imprisonment; and no one, under the same penalty, shall presume to receive or retain such a one in his service.

No one, moreover, shall pay or promise to pay to any one more wages, liveries, meed, or salary than was accustomed, as is before said; nor shall any one in any other manner demand or receive them, upon pain of doubling of that which shall have been so paid, promised, required or received, to him who thereof shall feel himself aggrieved; and if none such will sue, then the same shall be applied to any of the people that will sue; and such suit shall be in the court of the lord of the place where such case shall happen.

And if lords of towns or manors presume in any point to come against this present ordinance, either by them or by their servants, then suit shall be made against them in the form aforesaid, in the counties, wapentakes, and tithings, or such courts of ours, for the penalty of treble that so paid or promised by them or their servants. And if any before this present ordinance hath covenanted with any so to serve for more wages, he shall not be bound, by reason of the said covenant, to pay more than at another time was wont to be paid to such a person; nor, under the same penalty, shall presume to pay more.

Also, Saddlers, skinners, white-tawyers, cordwainers, tailors, smiths, carpenters, masons, tilers, shipwrights, carters, and all other artificers and workmen, shall not take for their labour and workmanship above the same that was wont to

be paid to such persons the said twentieth year, and other common years next preceding, as before is said, in the place where they shall happen to work; and if any man take more he shall be committed to the next gaol, in manner as before is said.

Also, That butchers, fishmongers, innkeepers, brewers, bakers, poulterers, and all other sellers of all manner of victuals shall be bound to sell the same victuals for a reasonable price, having respect to the price that such victuals be sold at in the places adjoining, so that the same sellers have moderate gains, and not excessive, reasonably to be required according to the distance of the place from which the said victuals be carried; and if any sell such victuals in any other manner, and thereof be convicted, in the manner and form aforesaid, he shall pay the double of the same that he so received to the party injured, or in default of him, to any other that will sue in this behalf. And the mayors and bailiffs of cities, boroughs, merchant towns, and others, and of the ports and maritime places, shall have power to inquire of all and singular, which shall in any thing offend against this, and to levy the said penalty to the use of them at whose suit such offenders shall be convicted. And in case that the same mayors and bailiffs be negligent in doing execution of the premises, and thereof be convicted before our justices, by us to be assigned, then the same mayors and bailiffs shall be compelled by the same justices to pay the treble of the thing so sold to the party injured, or to any other, in default of him, that will sue; and nevertheless toward us they shall be grievously punished.

And because that many strong beggars, as long as they may live by begging, do refuse to labour, giving themselves to idleness and vice, and sometimes to theft and other abominations; none upon the said pain of imprisonment, shall, under the colour of pity or alms, give anything to such, which may labour, or presume to favour them in their idleness, so that thereby they may be compelled to labour for their necessary living.

(Ed. from *Statutes of the Realm*, I, 307, 308.)

CHAPTER XIII

LOLLARDY

96. Wycliffite Conclusions: Ten Condemned as Heretical and Fourteen as Erroneous

In the fourteenth century began a resistless movement against the Catholic Church. This movement was in the sixteenth century to end in the establishment of Protestantism in England. The movement rolled on in three great waves: that for reform in the personal behaviour of recreant clerics; that for a more Christian life among the laity; and that for a reformation in doctrine. The great leader in these agitations was John Wycliff, and the Lollards were encouraged and directed by him and his "poor priests." As the central figure in the Lollard movement, it is fitting that there should be given Wycliff's doctrinal conclusions, the Bull of Pope Gregory against him, and his reply to the summons to appear at Rome.

I. — That the material substance of bread and of wine remains, after the consecration, in the sacrament of the altar.

II. — That the accidents do not remain without the subject, after the consecration, in the same sacrament.

III. — That Christ is not in the sacrament of the altar identically, truly and really in his proper corporal presence.

IV. — That if a bishop or priest lives in mortal sin he does not ordain, or consecrate, or baptize.

V. — That if a man has been truly repentant, all external confession is superfluous to him, or useless.

VI. — Continually to assert that it is not founded in the gospel that Christ instituted the mass.

VII. — That God ought to be obedient to the devil.

VIII. — That if the pope is foreordained to destruction and a wicked man, and therefore a member of the devil, no power has been given to him over the faithful of Christ by any one, unless perhaps by the Emperor.

IX. — That since Urban the Sixth, no one is to be acknowledged as pope; but all are to live, in the way of the Greeks, under their own laws.

X. — To assert that it is against sacred scripture that men of the church should have temporal possessions.

XI. — That no prelate ought to excommunicate any one unless he first knows that the man is excommunicated by God.

XII. — That a person thus excommunicating is thereby a heretic or excommunicate.

XIII. — That a prelate excommunicating a clerk who has appealed to the king, or to a council of the kingdom, on that very account is a traitor to God, the king and the kingdom.

XIV. — That those who neglect to preach, or to hear the word of God, or the gospel that is preached, because of the excommunication of men, are excommunicate, and in the day of judgment will be considered as traitors to God.

XV. — To assert that it is allowed to any one, whether a deacon or a priest, to preach the word of God, without the authority of the apostolic see, or of a catholic bishop, or some other which is sufficiently acknowledged.

XVI. — To assert that no one is a civil lord, no one is a bishop, no one is a prelate, so long as he is in mortal sin.

XVII. — That temporal lords may, at their own judgment, take away temporal goods from churchmen who are habitually delinquent; or that the people may, at their own judgment, correct delinquent lords.

XVIII. — That tithes are purely charity, and that parishioners may, on account of the sins of their curates, detain these and confer them on others at their will.

XIX. — That special prayers applied to one person by prelates or religious persons, are of no more value to the same person than general prayers for others in a like position are to him.

XX. — That the very fact that any one enters upon any private religion whatever, renders him more unfitted and more incapable of observing the commandments of God.

XXI. — That saints who have instituted any private religions whatever, as well of those having possessions as of mendicants, have sinned in thus instituting them.

XXII. — That religious persons living in private religions are not of the Christian religion.

XXIII. — That friars should be required to gain their living by the labour of their hands and not by mendicancy.

XXIV. — That a person giving alms to friars, or to a preaching friar, is excommunicate; also the one receiving.

97. Bull of Pope Gregory XI, against John Wycliffe

Gregory, bishop, servant of the servants of God, to his beloved sons the chancellor and University of Oxford, in the diocese of Lincoln, grace and apostolic benediction.

We are compelled to wonder and grieve that you, who, in consideration of the favours and privileges conceded to your University of Oxford by the apostolic s.e, and on account of your familiarity with the Scriptures, in whose sea you navigate, by the gift of God, with auspicious oar, you, who ought to be, as it were, warriors and champions of the orthodox faith, without which there is no salvation of souls, — that you through a certain sloth and neglect allow tares to spring up amidst the pure wheat in the fields of your glorious university aforesaid; and what is still more pernicious, even continue to grow to maturity. And you are quite careless, as has been lately reported to us, as to the extirpation of these tares; with no little clouding of a bright name, danger to your souls, contempt of the Roman church, and injury to the faith above mentioned. And what pains us the more is that this increase of the tares aforesaid is known in Rome before the remedy of extirpation has been applied in England where they sprang up. By the insinuation of many, if they are indeed worthy of belief, deploring it deeply, it has come to our ears that John de Wycliffe, rector of the church of Lutterworth, in the diocese of Lincoln, Professor of the Sacred Scriptures, (would that he were not also Master of Errors,) has fallen into such a detestable madness that he does not hesitate to dogmatize and publicly preach, or rather vomit forth from the recesses of his breast certain propositions and conclusions which are erroneous and false. He has cast himself also into the depravity of preaching heretical dogmas which strive to subvert and weaken the state of the whole church and even secular polity, some of which doctrines, in changed terms, it is true, seem to express the perverse opinions and unlearned learning of Marsilio of Padua of cursed memory, and of John of Jandun, whose book is extant, rejected and cursed by our predecessor, Pope John XXII, of happy memory. This he has done in the kingdom of England, lately glorious in its power and in the abundance of its resources, but more glorious still in the glistening piety of its faith, and in the distinction of its sacred learning; producing also many men illustrious for their exact knowledge of the holy Scriptures, mature in the gravity of their char-

acter, conspicuous in devotion, defenders of the catholic church. He has polluted certain of the faithful of Christ by besprinkling them with these doctrines, and led them away from the right paths of the aforesaid faith to the brink of perdition.

Wherefore, since we are not willing, nay, indeed, ought not to be willing, that so deadly a pestilence should continue to exist with our connivance, a pestilence which, if it is not opposed in its beginnings, and torn out by the roots in its entirety, will be reached too late by medicines when it has infected very many with its contagion; we command your university with strict admonition, by the apostolic authority, in virtue of your sacred obedience, and under penalty of the deprivation of all the favours, indulgences, and privileges granted to you and your university by the said see, for the future not to permit to be asserted or proposed to any extent whatever, the opinions, conclusions, and propositions which are in variance with good morals and faith, even when those proposing strive to defend them under a certain fanciful wresting of words or of terms. Moreover, you are on our authority to arrest the said John, or cause him to be arrested and to send him under a trustworthy guard to our venerable brother, the Archbishop of Canterbury, and the Bishop of London, or to one of them.

Besides, if there should be, which God forbid, in your university, subject to your jurisdiction, opponents stained with these errors, and if they should obstinately persist in them, proceed vigorously and earnestly to a similar arrest and removal of them, and otherwise as shall seem good to you. Be vigilant to repair your negligence which you have hitherto shown in the premises, and so obtain our gratitude and favour, and that of the said see, besides the honour and reward of the divine recompense.

Given at Rome, at Santa Maria Maggiore, on the 31st of May, the sixth year of our pontificate.

(Fasciculi Zizaniorum, pp. 242-244. Rolls Series. Translation from Translations and Reprints, ed. cit.)

98. Reply of Wycliffe to a Summons from the Pope (1384)

I have joy fully to tell what I hold, to all true men that believe and especially to the Pope; for I suppose that if my faith be rightful and given of God, the Pope will gladly con-

firm it; and if my faith be error, the Pope will wisely amend it.

I suppose over this that the gospel of Christ be heart of the corps of God's law; for I believe that Jesus Christ, that gave in his own person this gospel, is very God and very man, and by this heart passes all other laws.

I suppose over this that the Pope be most obliged to the keeping of the gospel among all men that live here; for the Pope is highest vicar that Christ has here in earth. For moreness of Christ's vicar is not measured by worldly moreness, but by this, that this vicar follows more Christ by virtuous living; for thus teacheth the gospel, that this is the sentence of Christ.

And of this gospel I take as believe, that Christ for time that he walked here, was most poor man of all, both in spirit and in having; for Christ says that he had nought for to rest his head on. And Paul says that he was made needy for our love. And more poor might no man be, neither bodily nor in spirit. And thus Christ put from him all manner of worldly lordship. For the gospel of John telleth that when they would have made Christ king, he fled and hid him from them, for he would none such worldly highness.

And over this I take it as believe, that no man should follow the Pope, nor no saint that now is in heaven, but in as much as he follows Christ. For John and James erred when they coveted worldly highness; and Peter and Paul sinned also when they denied and blasphemed in Christ; but men should not follow them in this, for then they went from Jesus Christ. And this I take as wholesome counsel, that the Pope leave his worldly lordship to worldly lords, as Christ gave them, — and more speedily all his clerks to do so. For thus did Christ, and taught thus his disciples, till the fiend had blinded this world. And it seems to some men that clerks that dwell lastingly in this error against God's law, and flee to follow Christ in this, been open heretics, and their fautors been partners.

And if I err in this sentence, I will meekly be amended, yea, by the death, if it be skilful, for that I hope were good to me. And if I might travel in mine own person, I would with good will go to the Pope. But God has needed me to the contrary, and taught me more obedience to God than to men. And I suppose of our Pope that he will not be Anti-christ, and reverse Christ in this working, to the contrary of Christ's will; for if he summon against reason, by him or by

any of his, and pursue this unskilful summoning, he is an open Antichrist. And merciful intent excused not Peter, that Christ should not clepe him Satan; so blind intent and wicked counsel excuses not the Pope here; but if he ask of true priests that they travel more than they may, he is not excused by reason of God, that he should not be Antichrist. For our belief teaches us that our blessed God suffers us not to be tempted more than we may; how should a man ask such service? And therefore pray we to God for our pope Urban the sixth, that his old holy intent be not quenched by his enemies. And Christ, that may not lie, says that the enemies of a man been especially his home family; and this is sooth of men and fiends.

(*Select English Works of Wycliffe*, ed. Arnold, Lond., III, 504.)
Spelling modernized.)

99. De Hæretico Comburendo

(2 HENRY IV., 1401)

Statutes of the Realm

Henry IV., a devout son of the Catholic Church, by the advice of Archbishop Arundell sought to stay by legislation the Lollard movement. To that end was passed in 1402 the statute *De Hæretico Comburendo*, an ordinance resting on the authority of the king and the Lords, as the Commons were distinctly opposed to the line of policy therein outlined. This sweeping measure was the first enactment prescribing death as the punishment for heresy; but before its passage, even in England, death by burning at the stake had under the Common Law been meted out to heretics.

Whereas, it is shown to our sovereign lord the king on the behalf of the prelates and clergy of his realm of England in this present Parliament, that although the Catholic faith builded upon Christ, and by his apostles and the Holy Church sufficiently determined, declared and approved, hath been hitherto by good and holy and most noble progenitors and predecessors of our sovereign lord the king in the said realm amongst all the realms of the world most devoutly observed, and the Church of England by his said most noble progenitors and ancestors, to the honour of God and the whole realm aforesaid laudably endowed and in her rights and liberties sustained, without that the same faith or the said church was hurt or grievously oppressed, or else perturbed by any perverse doctrine or wicked, heretical, or erronous opinions. Yet, nevertheless, divers false and preverse people of a certain new sect, of the faith of the sacraments of the church, and the authority of the same damnably thinking, and against the law of God and of the Church usurping the

office of preaching, do perversely and maliciously in divers places within the said realm, under the colour of dissembled holiness, preach and teach these days openly and privily divers new doctrines, and wicked heretical and erroneous opinions contrary to the same faith and blessed determinations of the Holy Church, and of such sect and wicked doctrine and opinions they make unlawful conventicles and confederacies, they hold and exercise schools, they make and write books, they do wickedly instruct and inform people, and as much as they may excite and stir them to sedition and insurrection, and make great strife and division among the people, and other enormities horrible to be heard daily do perpetrate and commit, in subversion of the said catholic faith and doctrine of the holy church, in diminution of divine worship, and also in destruction of the estate, rights, and liberties of the said church of England; by which sect and wicked and false preachings, doctrines, and opinions of the said false and perverse people, not only most greatest peril of the souls, but also many more other hurts, slanders, and perils, which God prohibit, might come to this realm, unless it be the more plentifully and speedily helped by the king's majesty in this behalf; especially since the diocesans of the said realm cannot by their jurisdiction spiritual, without aid of the said royal majesty, sufficiently correct the said false and perverse people, nor refrain their malice, because the said false and perverse people do go from diocese to diocese and will not appear before the said diocesans, but the same diocesans and their jurisdiction spiritual, and the keys of the church with the censures of the same, do utterly condemn and despise; and so their wicked preachings and doctrines do from day to day continue and exercise to the utter destruction of all order and rule of right and reason. Upon which novelties and excesses above rehearsed, the prelates and clergy aforesaid, and also the Commons of the said realm being in the same Parliament, have prayed our sovereign lord the king that his royal highness would vouchsafe in the said Parliament to provide a convenient remedy. The same our sovereign lord the king, graciously considering the premises, and also the laudable steps of his said most noble progenitors and ancestors, for the conservation of the said catholic faith and sustentation of the said divine worship, and also the safeguard of the estate, rights and liberties of the said church of England, to the laud of God and merit of our said sovereign lord the king, and prosperity and honour of

all his said realm, and for the eschewing of such dissensions, divisions, hurts, slanders, and perils, in time to come, and that this wicked sect, preachings, doctrines, and opinions, should from henceforth cease and be utterly destroyed; by the assent of the great lords and other noble persons of the said realm, being in the said Parliament, hath granted, stablished, and ordained, from henceforth firmly to be observed, that none within the said realm, or any other dominions subject to his royal majesty, presume to preach openly or privily, without the license of the diocesan of the same place first required and obtained, curates in their own churches and persons hitherto privileged, and other of the canon law granted, only excepted; nor that none from henceforth anything preach, hold, teach, or instruct openly or privily, or make or write any book contrary to the catholic faith or determination of the holy church, nor of such sect and wicked doctrines and opinions shall make any conventicles, or in any wise hold or exercise schools; and also that none from henceforth in any wise favour such preacher or maker of any such and like conventicles, or persons holding or exercising schools, or making or writing such books, or so teaching, informing, or exciting the people, nor any of them maintain or in any wise sustain, and that all and singular having such books or any writings of such wicked doctrine and opinions, shall really with effect deliver or cause to be delivered all such books and writings to the diocesan of the same place within forty days from the time of the proclamation of this ordinance and statute.

And if any person or persons of whatsoever sex, estate, or condition that he or they be, from henceforth do or attempt against the said royal ordinance and statute aforesaid in the premises or any of them, or such books in the form aforesaid do not deliver, then the diocesan of the same place in his diocese such person or persons in this behalf defamed or evidently suspected and every of them may by the authority of the said ordinance and statute cause to be arrested and under safe custody in his prison to be detained till he or they of the articles laid to him or them in this behalf do canonically purge him or themselves, or else such wicked sect, preachings, doctrines and heretical and erroneous opinions do abjure, according as the laws of the church do demand and require.

* * * * *

And if any person within the said realm and dominions,

upon the said wicked preachings, doctrines, opinions, schools, and heretical and erroneous informations, or any of them be before the diocesan of the same place or his commissaries convicted by sentence, and the same wicked sect, preachings, doctrines and opinions, schools and informations, do refuse duly to abjure, or by the diocesan of the same place or his commissaries, after the abjuration made by the same person be pronounced relapsed, so that according to the holy canons he ought to be left to the secular court, (upon which credence shall be given to the diocesan of the same place or to his commissaries in this behalf), then the sheriff of the county of the same place, and mayor and sheriffs, or sheriff, or mayor and bailiffs of the city, town, and borough of the same county next to the same diocesan or the said commissaries, shall be personally present in preferring of such sentences, when they by the same diocesan or his commissaries shall be required; and they the same persons and every of them, after such sentence promulgate shall receive, and them before the people in an high place cause to be burnt, that such punishment may strike fear into the minds of others, whereby no such wicked doctrine and heretical and erroneous opinions, nor their authors and fautors, in the said realm and dominions, against the catholic faith, Christian law, and determination of the holy church, which God prohibit, be sustained or in any wise suffered in which all and singular the premises concerning the said ordinance and statute, the sheriffs, mayors, and bailiffs of the said counties, cities, boroughs and towns shall be attending, aiding, and supporting to the said diocesans and their commissaries.

(Ed. from *Statutes of the Realm*, II, 125-128.)

ROYAL LETTERS REGARDING LOLLARDY

No more illuminating documents exist than those of the royal letters regarding the Lollards. Those selected are peculiarly suggestive. No. 100 shows the attitude of Henry V. toward the Church, in its relation with Lollardy. No. 101 directs the prosecution of Sir John Oldcastle, the Lollard leader. No. 102 outlines the attitude of Henry VI., and the importance of the religious movement.

100. Henry V. to the Mayor and Sheriffs of London

(1413)

Letters of the Kings of England

The King, &c., greeting. Inasmuch as we have been given to understand, that certain priests, not privileged by law for this purpose, nor licensed by the diocesan of the place, nor

permitted by the church, who are said to be of this new sect of the Lollards, have been preaching in public places within the aforesaid city, and in the suburbs and vicinity thereof, in order to excite and win over some, who are ill disposed to the Catholic faith, and the doctrine of holy mother church; and by their own rashness, and contrary to the laws and ordinances of the church, they have preached, nay, rather have profaned the Word of God; or, at least, under pretext of preaching, they have in such places been emboldened to propagate discord among our people and the pestiferous seeds of Lollardism and evil doctrine, after the manner of preachers; and as some of our people of our said city and its vicinity, under pretence of hearing such preaching, have assembled to those places, and have congregated together in large multitudes; and, in consequence, murmurs and seditions have in part arisen, and will probably arise, to the disturbance and no small marring of our peace, unless a remedy be more quickly applied to abolish such meetings and pull down such conventicles:

We, desiring especially to provide for the defence of the Catholic faith, the laws and ordinances of the church, and for preserving our peace, command you, that you cause proclamation publicly to be made, within our city aforesaid, and its suburbs, in every place where you shall find it expedient:

That no chaplains, of whatever degree, state, or condition they may be, shall henceforward hold, cherish, affirm, preach, or defend such opinions, heresy or error, contrary to the decision of holy mother church; and that none other our lieges and subjects in this matter adhere to or abet them, or lend them counsel or assistance, under penalty of imprisonment of their bodies, and the forfeiture of all their goods and chattels, to our will and disposal. We further command and positively enjoin you that, if henceforth you shall be able to find within your bailiwick any such chaplains preaching and affirming publicly or secretly, contrary to the aforesaid re-script, or any other our lieges and subjects making conventicles and meetings, or receiving the same chaplains, or being under probable or great suspicion concerning the premises, or in any way counselling, favouring, or helping such chaplains in this matter, then arrest ye them without delay, and commit them to prison, there to remain, until they shall obey the commands of the diocesan in whose diocese they may have preached, and it shall have been certified unto you accordingly by the same diocesan.

And, that also in the places aforesaid, ye cause it to be proclaimed, in our behalf, that no such chaplain presume hereafter to preach, contrary to the constitutions of the province published, without license, sought and obtained as a qualified literate; and that none of our lieges henceforward hear the same chaplains so preaching, or be present at such preachings on any pretence alleged, under the punishment and forfeiture aforesaid; and that all and every our lieges and subjects of our city and suburbs aforesaid comply with, obey, and attend to you and any of you, in the carrying out of the premises, under penalty of imprisonment.

Witness the King, at Westminster, the 21st day of August, 1413.

(*Letters of the Kings of England*, ed. by J. O. Halliwell, Lond., 1846, I, p. 72.)

101. Henry V. to the Sheriff of Kent

(1414)

Letters of the Kings of England

The king to the sheriff of Kent, greeting. Whereas we are more fully informed, and it is notoriously and openly discovered, that very many our subjects of our kingdom of England, vulgarly called Lollards, have, by the agency, instigation, encouragement, abetting, and upholding of John Oldcastle, knight, who hath lately stood condemned of heresy, and is declared and pronounced a manifest heretic, according to the canonical decrees published on that behalf, have preached and caused to be preached divers opinions manifestly contrary to the Catholic faith; and have falsely and traitorously, contrary to their due allegiance, contemplated our death, because that we do take part against them and such their opinions, even as a true Christian prince, and as we are bound by the chain of our oath; and, whereas they have formed many other designs to the destruction as well of the Catholic faith as of the estate of the lords and nobles of our kingdom, as well spiritual as temporal; and they have purposed to hold various meetings and other unlawful cabals, with a view to perpetrate their abominable project in this behalf, and desist not from daily plotting (as far as in them lies) to the probable destruction of our own person, and of the estates of the lords and nobles aforesaid; we, considering in what manner certain such Lollards and others, who imagined and designed our death and the other mischiefs and misdeeds aforesaid, have been taken for the before-named reason, and stand adjudged to death for this abominable act and purpose; and wishing to order and provide, in the best

and most quiet manner possible, for the avoiding of the effusion of Christian blood, and especially that of our lieges whom, on account of our tender and special regard towards them, we desire, with our whole heart's intent, to preserve from the shedding of blood and corporal punishment.

We command you, and positively enjoin, that in each place in your bailiwick, where you shall find it best, you cause to be proclaimed publicly on our behalf, that they, by whose agency, incitement, counsel, or information, the said John shall be taken or arrested, shall receive five hundred marks; and he that shall take or cause to be arrested the same John, one thousand marks, of our free gift, for his labour and his pains in this behalf, and that the citizens, burgesses, and corporations of the cities, boroughs, and other towns, who shall take and arrest the same John, and shall cause him to be brought before us, shall be quit and wholly exonerated for ever from all taxes, tallages, tenths, fifteenths, and other contributions whatever, to us and our heirs hereafter payable, and that we will cause accordingly to be made to them our letters patent under our great seal; and that in doing their own concerns, and in any lawful and honourable transactions whatever to be done towards ourself, they shall find and have ourself more than usually gracious.

Witness the King, at Westminster, the 11th day of January, 1414.

(Letters of the Kings of England, ed. cit., I, p. 74.)

102. King Henry VI. to the Abbot of St. Edmondsbury and to the Aldermen and Bailiffs of the Town, for the Suppression of the Lollards

By the king,

Trusty and well-beloved, the malicious intent and purpose of God's traitors and ours, heretics in this our realm, commonly called Lollards, the which now lately setting up of seditious bills, and otherwise traitorously exhorted, stirred and moved the people of our land to assemble, gather, and arise against God's peace and ours, is not unknown to you nor to no man endued with reason, foresight, or discretion: the which, howbeit that they of high subtlety, fraud, and fellness, feign, pretend, and write such thing as they trow to blind with you that be simple, and to draw by their arts and affections to them and their intent, intending nevertheless and purposing without any doubt the subversion of the Christian faith, and belief of us also and of all estates,

and gentlemen, and generally of all true Christian men and women that will not follow them, and assist them in their damnable errors, intent and purpose, and would destroy all political rule and government, spiritual and temporal; and considering that they, against God's law and man's, stir our people without our commandment or authority to assemble and arise, and therewith purpose and would take upon them and usurp as well our royal power and authority as the Church's, and use correction and government in no wise belonging unto them that ought to be governed, and not so to govern; the which stirring and usurpation of our royal power, by the law of this our land, is treason, each reasonable man may well feel that in eschewing of chastising, and aspire reddome [violence] to the contemner of our laws, they so doing would never by their wills come to reckoning thereof, but dispose them to be out of subjection, obedience, or awe of us, and of our law; and, as God knoweth, never would they be subject to his, nor to man's, but would be loose and free, to rob, reve, and despoil, slay and destroy all men of estate, thrift, and worship, as they purposed to have done in our fadre's days, and of lad and lurdains [clowns] would make lords, and generally would use, do, and fulfil all their lusts and wills that God forbade: and howbeit, that by the grace of our Lord, and the great and notable diligence of our be[good] uncle of Gloucester, our lieutenant, and of other commissioners and judges in sundry places, lawful execution may be done upon divers of the said God's traitors and ours; the which, if reason ought to have been unto them and their accomplices extreme confusion and rebuke; nevertheless, it is credibly from day to day reported unto our said lieutenant and council here, in divers ways, that the wicked and malicious purpose of the said traitors ceaseth not, but continueth and abideth: wherefore, howbeit, that we wrote late ago unto you, that be now true unto God and us, to the intent that followeth: nevertheless, forasmuch as we know not when our said letters came unto you, praying you heartily and also charging you on the faith, truth, and allegiance that ye owe to God and to us, that with all diligence and without delay or tarrying, ye ordain and array you and yours, and stir other such as will accompany you to be ready to assemble, with other of our true liege men to do the same, and withstand mightily, chastise, and subdue the damnable malice and enterprise of God's said traitors and ours, the which ye and all our true liege men have great

cause and matter to have in great await. And, in especial, we will and charge you that ye inquire, consider, and take good heed from time to time, which of the inhabitants in the country about who have now of late time absented them, or absent them hereafter, otherwise than their occupation or craft axeth; and also, of strange and unknown comers, such as any matter of ill suspicion may reasonably be felt in, and that ye arrest, search, and examine them in the straightest wise, whence they come, and where they have been, and of all the days, times, and places of their absence; and also, if sowers of seditions, slanderous or troublous language, or tales. Over this, not suffering privy gatherings, or conventicles to be had or made by night or by day thereabout, you having alway your recourse and resort, whensoever you think that need is for your succour, your help, and comfort to our said lieutenant and council, whom ye shall find ever well-willed and disposed to purvey that that may be to your surety, and comfort and ease; and fail not in due and diligent execution of these things aforesaid, as ye desire our prosperity and yours and welfare. Given under our privy seal at Westminster, the sixth day of July. To our trusty and well-beloved the Aldermen and Bailiffs of our town of Bury.

(*Letters of the Kings of England*, ed. cited, I, 115.)

103. Mandate for the Burning of a Heretic

(1438)

Letters of the Kings of England

There exists a misconception regarding the executions of heretics under English law. It is not infrequently supposed that the death penalty for heresy was peculiar to the reign of Mary. (Nos. 131, 132.) The selection given will therefore be as suggestive as No. 141, which follows in the chapter devoted to the reign of Elizabeth.

The king to the sheriffs of London, etc.,

Whereas the venerable Father Robert, bishop of London, by the assent and consent of reverend men of great discernment and wisdom, as well doctors of divinity as others, doctors of the canon and civil law, who were aiding to him in the process of justice required in this behalf, and which hath been observed in all points, hath pronounced John Bismire, otherwise called John Chandyrer, of the Parish of Saint Mary-at-Axe, in the city of London, who hath fallen back into the heresy which he held and abjured—a heretic relapsed—by his definite sentence, according to laws and

canonical decrees set forth in this matter, even as appeareth to us by the letter of the foresaid bishop; and as Holy Mother Church hath not any more that she can do in the preceding case...

We, therefore, zealous for justice, and revering the catholic faith, and willing to uphold and defend Holy Church, the rights and liberties of the same, to pluck out by the roots heresies and errors out of our kingdom of England, as far as in us lieth, and to punish with conſign punishment heretics so convicted; and considering that such heretics, convicted in the form aforesaid, according to law, divine and human, and the canons and institutes in this behalf, ought, as a matter of course, to be burned with the burning of fire.

To you we command, with all strictness possible, and positively enjoin, that the aforesaid John, now being in your custody, you cause to be committed to flames in some public and open place, within the liberty of the city foresaid, having made public the reason before stated, in presence of the people; and him to be burned in the same fire in very deed, by way of abomination of a crime of this kind, and as an open example to others, his neighbours: and this at your instant peril by no means omit ye.

Witness the king, the 14th day of May, the sixteenth year of his reign.

[*Letters of the Kings of England*, ed. cited, I, 119.]

PART V

THE TUDOR PERIOD

(1485-1603)

CHAPTER XIV

THE DIVORCE QUESTION

104. Henry's Attempts to secure the Aid of the Church

(1530)

Original Letters

The following letter from the emissary of the king to the Italian universities shows the method on which Henry proceeded in his efforts to obtain the sanction of the Church to his divorce from Katherine.

Richard Croke to Henry VIII., on the prevarication of certain Friars of the University of Padua, who had taken his Majesty's money to give their subscription as disallowing his marriage with Queen Katharine, but now are for it.

(Ms. Harl. 416, fol. 21 Orig.)

Please yt yowr Highnes to be aduertysed that syns the xxviij day of Auguste I delyuered vnto friar Thomas xxiiij crouynes; syns the whyche tyme he hathe got yowr Highnes but vij subscriptions; the whiche I sent by Harwel the xix of Octobre. And of them, too only excepte, there ys not on worthy thanke. I have and do often cal vpon hym, but he answerithe me that there ys no mo doctors to be goten: the contrary whereoff I knowye to be trew. And whan I demande off hym for the declaration off my accompts som remembrance off his hande for xlvij crouynes whyche I have paide hym, he answeythe that at th'end off the cause he wyl other make me a byl, or delyver me th'ole money ayene. And hys cause why he wol make me no byl, ys, as he saithe, feare leste hys byl myght be shewed to yowr Highnes aduersaryes. Off the whyche pretendyd feare I so moche the more douzt, by cause I have taken hym twysse styffelye reasoning upon the Queenys parte ayenste yowr Highnes conclusion with a friar of Florence, whom afore thys day he alwayes assuryed me to be off yowr Highnes opinion. Albeyt now he saithe the said friar ys departed; beyng utter enymye to the same. And in communication,

Soverayne Lord, with me upon his said reasonyng with the said friar, he said to me that th'Emperowrs embassator shulde say to him *quod si velit procurare pro Regina merces ejus non staret intus paucula scuta*, and he addyd these words to the same, *Crede mihi, Croce, posse me efficere si velim facere quod alii velint et faciunt, ut quicquid hactenus fecerim pro rege illi magis obsit quam prosit*. Thys frute commythe off Rhaphaels works put in printe makinge protestation in the worke writen ayenste yowr Highnes *quod quidquid scripserit pro eadem id omne tantum ex aliorum mente non sua ad ingenii exercitationem scripserit*. And that the worke writen ayenste yowr Highnes ys hys very trew and playne opinion, and firme and ful sentence and mynde. What hurte thys worke with sutche werks as ar in Englishe, setforthe in England (by comen rumor here) ayenste yowr Highnes cause, dotthe unto yowr Highnes said cause I have at temptit by doble lettres sente by the means off Harwel from Venice to Antewarpe, and from Antewarpe to yowr Highnes by post, purposely acertayned yowr Highnes. And consyderinge that I can get no mo subscriptions nother off Friar Ambrose nor off Thomas, very feare compellythe me to aduertysse yowr Highnes that all these Friars were firste and only attayned vnto yowr Highnes by me. And Ambrose had off me for the gettinge of the determination off Padua for his parte only xx crouynes. Thomas hathe had xlvij crouynes. Franciscus, for him and Dionysius, lxxvij crouynes, as I can right wel prove. And thys notwithstandinge, whan I cal upon them for som frute of none off theyr labor, except Dionysius, I can get non. And as Ambrose hathe answerid me that my Lorde of London hathe comandyd hym *tantum in causa regia facere quam ipsi prescripserit Cassalius*, so Leonicus, a man off greate gravitye and lernynge, by his lettres (whereoff a cople I sende herein enclosyd) acertaynythe me off a wars poynte. Albe yt I truste yt be not so, for suche commaundemente coulde not but be prejudicial, as wel unto yowr high cause as unto my labors taken in the same, and also to the losse off the money that I have laid owzt to the said friars, for the same. Nor can I not perceve how (yff thys be true) that I any more may preferre yowr most high causes in Venice and the partyes abowzt. Whose importune labor my Lorde knowethe to have bene the principal and chefe cause off the successe that yowr Highnes cause hathe had in Italye. Where afore my commynge, nor yet by other men

longe after, there was (as yowr Highnes and al other know-
ethe) nothings earthely done. And I besече yowr Highnes
to pondre my good harte and acts passed, the whyche shall
never (to dye for yt) cease to farther yowr said Highnes
pleasure in thys behalffe, with all payne, faythe, and dili-
gence, as the effect off my endeavor I truste shal alwayes
frutefully profe. And thus I besech our mooste mercyful
Saviour Christe to preserve yowr moste noble Grace. At
Venice, the xxij^d off Octobre, with the rude hand off yowr
moste High Majestyes.

Moste humble and lauly servante

RICHARDE CROKE.

(From *Original Letters illustrative of English History*, Ellis, Lond., 1846
Third Series, II, p. 167.)

**105. Speeches made in the Divorce Trial between Henry VIII
and Katherine of Arragon**

(1529)

Somers Tracts

The four speeches which follow show the hasty method of
the proceedings as inaugurated, the gross injustice to the queen,
and the independence of Campeius, who refused to bend his
sense of right to the will of the royal despot. The determination
of the cardinal that judgment must be given by the pope was an
important factor in producing the religious revolution which
later shook England to her centre and freed her from papal
domination.

"The four following articles are the Speeches of the different
parties at the famous trial of Divorce, before Wolsey and Cam-
peius, as papal commissioners, 21st June, 1529. The Speeches
are here given rather more fully than in the Chronicles."

* * * * *

The Speech of Queen Katherine, which she made when
she was called upon, about the Divorce of her and the King,
who rose out of her chair, and came to the King, and kneeling
down at his feet, said as followeth:

Sir,

In what have I offended you? Or what occasion of dis-
pleasure have I given you, intending thus to put me from
you? I take God to be my judge, I have been to you a
true and humble wife, ever conformable to your will and
pleasure; never contradicting or gain-saying you in any

thing: being always contented with all things, wherein you had any delight, or took any pleasure, without grudge, or countenance of discontent or displeasure. I loved, for your sake, all them whom you loved, whether I had cause or no; whether they were my friends, or my enemies. I have been your wife these twenty years or more, and you had by me divers children; and when you had me first, I take God to be my judge, that I was a maid: and whether it be true or no, I put it to your own conscience. If there be any just cause that you can alledge against me, either of dishonesty, or matter lawful to put me from you, I am content to depart, to my shame and confusion; and if there be none, then I pray you to let me have justice at your hands. The king, your father, was, in his time, of such an excellent wit, that he was accounted amongst all men for wisdom, to be a second Solomon; and the king of Spain, my father Fardinand, was accounted one of the wisest princes that had reigned in Spain for many years. It is not, therefore, to be doubted, but that they had gathered as wise counsellors unto them, of every realm, as to their wisdom they thought meet: And I conceive, that there were in those days, as wise and well-learned men, in both the realms, as be now at this day, who thought the marriage between you and me good and lawful. Therefore it is a wonder to me, what new inventions are now invented against me. And now to put me to stand to the order and judgment of this court, seems very unreasonable. For you may condemn me for want of being able to answer for myself; as having no council, but such as you assigned me; who cannot be indifferent on my part, since they are your own subjects, and such as you have taken, and chosen out of your own council; whereunto they are privy, and dare not disclose your will, and intent. Therefore I humbly pray you, to spare me, until I may know, what council my friends in Spain will advise me to take: and if you will not, then your pleasure be fulfilled. — *And with that she rose up, and departed, never more appearing in any court.*

King Henry the VIIIth's Speech upon the Queen's departure out of the Court.

I will now, in her absence, declare this unto you all, That she has been unto me as true and obedient a wife, as I could wish, or desire. She has all the virtuous qualities, that

ought to be in a woman of her dignity, or in any other of mean condition. She is also surely a noble woman born; Her condition will well declare it.

The Speech of Queen Katherine to Cardinal Campeius, and Wolsey, they being sent by the king.

My lords, I cannot answer you so suddenly; for I was set, among my maids, at work, little thinking of any such matter; wherein there needs a longer deliberation, and a better head than mine, to make answer. For I have need of council in this case, which concerns me so near: and for any council, or friends that I can find in England, they are not for my profit. For it is not likely that any Englishman will council me, or be a friend to me against the king's pleasure, since they are his subjects; and for my council, in which I may trust, they are in Spain.

The Speech of Cardinal Campeius, upon King Henry the VIIIth's calling for judgment.

I will not give judgment, till I have made relation to the pope of all our proceedings; whose council, and command, I will observe. The matter is too high for us to give an hasty judgment, considering the highness of the persons, and doubtfulness of the case; and also whose commissioners we be, under whose authority we sit. It were therefore reason that we should make our chief head a council in the same, before we proceed to a definitive sentence. I came not to please, for favour, need, or dread, of any person alive, be he king, or otherwise. I have no such respect to the person, that I will offend my conscience. I will not, for the favour or disfavour of any high estate, do that thing, which shall be against the will of God. — *I am an old man, (both weak and sickly) that look daily for death. I will not wade any farther in this matter, until I have the opinion and assent of the pope.*

(From *Somers' Collection of Tracts*, ed. by Walter Scott, Lond., 1809, I, p. 33.

106. The Divorce Proceedings announced to the House of Commons (1531)

Parliamentary History

On March 30, 1531, the Lord Chancellor, together with a committee of Lords Spiritual and Temporal, went to the House of Commons, where the Chancellor opened the proceedings with a brief speech announcing the reason of the visit. There is a

grim humour in the king's self-accusation of incestuous union, and the subserviency of the consulted authorities is an object-lesson of the time. The object of the communication is set forth in the concluding sentences of the extract, but it may be doubted if the purpose was accomplished.

"You of this worshipful House,

"I am sure you be not so ignorant but you know well that the Kyng our Soveraign Lorde hath married his Brother's Wyfe; for she was both wedded and bedded with his Brother Prince Arthur, and therefore you may surely say that he hath married his Brother's Wyfe, if this Mariage be good as so many Clerkes do doubt; Wherefore the Kyng, like a virtuous Prince, willing to be satisfied in his Conscience, and also for the Suretie of his Realme, hath, with great Deliberation, consulted with great Clerkes, and hath sent my Lorde of London, here present, to the chiefe Universities of all Christendome, to know their Opinion and Judgment in that Behalf. And altho' the Universities of Cambryste and Oxforde had been sufficient to discusse the Cause, yet, because they be in this Realme, and to avoyde all Suspicion of Partiality, he hath sent into the Realme of France, Italy, the Pope's Dominions, and Venetians, to know their Judgment in that Behalf; which have concluded, written, and sealed their Determinations, accordyng as you shall heare red." Then Sir Brian Tuke took out of a Box twelve Writings sealed, and read them before the House as they were translated into the English Tongue.

Next follows, in Hall, the Judgment of the Foreign Universities; which were those of Paris, Orleans, Anjou, Bruges, Bononia, and Padua, at Length. These being somewhat foreign to our Purpose, we shall therefore content ourselves with observing, That the Question put to these learned Societies was, Whether the Pope's Dispensation for a Brother's marrying a Brother's Wife, after Consummation with her former Husband, was valid or not? Which, as the Question was stated, they all gave in the Negative.

These Determinations being all read in the House, there were produced above an hundred different Books, wrote by foreign Civilians and Divines, against the Lawfulness of the Marriage; which, says Hall, because the Day was far spent, were not read. Then the Chancellor again said, "Now you of this Commen House may reporte in your Countries what you have seene and heard; and then all Men shall openly

perceyve that the Kyng hath not attempted this Matter of Wyll or Pleasure, as some Straungers reporte, but only for the Discharge of his Conscience, and Suretie of the Succession of his Realme. This is the Cause of our Repayre hyther to you, and now we wyl departe."

(*Parliamentary History*, 2nd ed., Lond., 1762. Vol. III, p. 81.)

CHAPTER XV

HENRY VIII. AND THE CHURCH

107. Payment of Annates to the Pope forbidden

Parliamentary History

The struggle between Henry VIII. and the Pope on the question of divorce caused the king to assume the headship of the Catholic Church in England and to take that church from papal control. The first important step was taken in 1531 when the clergy were compelled to address Henry as "Head of the Church and Clergy so far as the law of Christ will allow."

The second was the act restraining the payment of annates to the pope. The selection given contains a summary of this act. Its language should be compared with the other anti-papal statutes contained in this chapter. They in turn should be read in connection with those given in Chapters XI, XVII, XVIII, and XIX. The acts given in these and preceding chapters furnish material for the study of the development of the independent Church of England.

This year also an Act passed, concerning Annates, or the First-Fruits of Bishoprics, paid usually to the See of Rome, for the obtaining of Palls, Bulls, etc., the Preamble and Consideration whereof was, as appears in the Records, 1. The great Sums of Money already passed out of the Kingdom that Way, being no less than 160,000 *l* Sterling, since the second Year of Henry VII. 2. That more was likely to be shortly transported, by reason many of the Bishops are aged. 3. That the first Use and Grant of them was for maintaining Arms against Infidels. So that it was enacted, That they should henceforth cease, and no Money to be paid to Rome to that Intent, except as is hereafter specified, viz. Lest the Court of Rome should think themselves irremunerated for their Pain in making and sealing Bulls in Lead, etc., it was ordained, That there may be allowed for the said Bulls Five Pounds in the Hundred, according to the Rate of each Bishopric's clear Value above all Charges. And if any Man, being chosen to a Bishopric, and presented by the

King to the Pope, shall hereupon find any Lett or Hindrance, by Restraint of his Bulls, upon convenient Suit for the same, then he may be named and presented by the King's Highness to the Archbishop of the Province, who shall consecrate him; or, the said Archbishop delaying, under Pretence of wanting Pall, Bull, etc., the Person so named shall be consecrated, and invested by any two Bishops of the Land whom the King shall appoint thereto; and shall be held and reputed thereafter as a compleat Bishop. But of this Act we shall speak again, when we come to the 25th Year of the King: For though it passed the Parliament now, and the King gave his Assent thereto, yet Power was reserved for him to annul or confirm the same any Time within two Years next following.

Moreover, in this Statute, the King and his Parliament declare, That they do not intend to use any Extremity or Violence, before gentle and courteous Ways have been attempted: But it shall please the King to propose an amicable Composition to the Pope, and his Holiness shall be content either to abolish or moderate those Annates, then the Compositions, so made, to stand firm: But if, upon the said amicable Propositions, the Realm cannot be disburdened, and that, for the Continuance of the same, the Pope shall unjustly vex and disquiet the King or his Subjects by any Excommunication, etc., be it then enacted, by the Authority aforesaid, That the King's Highness, his Heirs and Successors, Kings of England, and all his Spiritual and Lay Subjects of the same, without any Scruple of Conscience, shall and may lawfully, to the Honour of Almighty God, the Increase and Continuance of Virtue and good Example within this Realm (the said Censures, Excommunications, Interdictions, Compulsories, or any of them, notwithstanding), minister, or cause to be ministered, throughout this said Realm, and all other the Dominions and Territories belonging or appertaining thereunto, all and all Manner of Sacraments, Sacramentals, Ceremonies, or other Divine Service of Holy Church, or any other Thing or Things necessary for the Health of the Soul of Mankind, as they heretofore, at any Time or Times, have been virtuously used or accustomed to do within the same. And that no Manner of such Censures, Excommunications, Interdictions, or any other Process or Compulsories shall by any of the Prelates, or other Spiritual Fathers of this Realm, nor by any of their Ministers or

Substitutes, be at any Time or Times hereafter published, executed, or divulged, in any Manner of Ways.

(*Parliamentary History*, ed. cit., III, p. 88.)

108. Appeals to Rome prohibited

(1533)

Parliamentary History

The following Act was a further severance of the Church of England from the domination of the See of Rome, restraining the Canonical Courts from carrying appeals to the Pope. The terse comment at the end, written by the author of the portion of the History from which the Act is quoted, well sums up the motive for the action taken.

That no Appeals should be made out of this Realm for these Reasons, viz. That whereas the Kingdom of England was a just Empire, furnished with such able Persons, both Spiritual and Temporal, as could decide all Controversies arising in it: And whereas Edward I. Edward III. Richard II. Henry IV. and other Kings of this Realm, had made sundry Ordinances, Laws, and Statutes, for the Conservation of the Prerogative, Liberties, and Pre-eminences of the said Imperial Crown, and of the Jurisdictions Spiritual and Temporal of the same, to keep it from the Annoyance of the See of Rome, as also from the Authority of other foreign Potentates attempting the Diminution or Violation thereof: And because, notwithstanding the said Acts, divers Appeals have been sued to the See of Rome in Causes Testamentary, Causes of Matrimony and Divorce, Right of Tythes, Oblations and Obventions, to the great Vexation and Charge of the King's Highness and his Subjects, and the Delay of Justice; and forasmuch as the Distance of the Way to Rome is such, as the necessary Proofs and true Knowledge of the Cause cannot be brought thither, and represented so well as in this Kingdom, and that therefore many Persons be without Remedy, it is therefore enacted, That all Causes Testamentary, Causes of Matrimony and Divorces, Tythes, Oblations, and Obventions, either commenced or depending formerly, or which hereafter shall commence in any of the King's Dominions, shall be heard, discussed, and definitively determined within the King's Jurisdiction and Authority in the Courts Spiritual and Temporal of the same, any foreign Inhibition or Restraints to the contrary notwithstanding: So that, altho' any Excommunication or Interdiction on this Occasion should follow from that See, the Prelates and Clergy of this

Realm should administer Sacraments, and say Divine Service, and do all other their Duties, as formerly hath been used, upon Penalty of One Year's Imprisonment, and Fine at the King's Pleasure; and they who procured the said Sentences should fall into a *Pramunire*. As for the Orders to be observed henceforth, it was enacted, That in Suits commenced before the Arch-Deacon or his Officials, Appeal might be made to the Bishop of the said See; and from thence, within fifteen Days, to the Archbishop of Canterbury, or Archbishop of York, respectively in their Provinces, and so likewise to the Archbishops in the King's other Dominions. Or if Suit be commenced before the Arch-Deacon or any Archbishop or his Commissaries, then appeal may be made within fifteen Days to the Court of Arches, and so to the Archbishops without further Appeal: In all which Cases the Prerogative of the Archbishop and Church of Canterbury was reserved. That if any Suit arose betwix the King and his Subjects, Appeal might be made within fifteen Days to the Prelates of the Upper House in the Convocation then sitting, or next called by the King's Writ, there to be finally determined: And that they who shall take out any Appeal contrary to the Effect of this Act, or refuse to obey it, they, their Adherents, and Counsellors, shall incur the Penalty of the Statute of 16 Richard II. — And it is natural to suppose, that the Spirituality, finding the Power, invested formerly in the Pope, to be devolved now in great part on them, did more easily suffer the Diminution of Papal Authority.

(*Parliamentary History*, ed. cit., III, p. 93.)

109. Henry's Attitude toward Heretics

(25 HENRY VIII., c. 14, 1533-34)

Statutes at Large of England

Henry's laws against heretics were intended to strike a blow at the exercise of the papal power in England, but they also show that his antagonism was against the headship of the Pope and not against the prevailing faith. To Henry, the Church of Rome was the true Church; he cherished the idea that he could in England take the place hitherto held by the Pope, and yet preserve the doctrines of the Church in their entirety. He was therefore as severe in his enactments against heretics as in those against traitors.

AN ACT FOR PUNISHMENT OF HERESY

I. (Preamble.)

II. And nevertheless forasmuch as the most foul and detestable crime of heresy should not hereafter grow and in-

crease, but utterly be abhorred, detested, and eradicate, nor that any heretics should be favoured, but that they should have condign and sufficient punishment, and for the repression of heretics and such erroneous opinions in time coming: be it established, ordained, and enacted by the authority of this present Parliament, that the statute made in the fifth year of your noble progenitor King Richard the Second, and the statute made in the second year of King Henry the Fifth [Fourth], concerning punishment and reformation of Heretics and Lollards, and every provision therein contained, not being repugnant to this Act, shall be, and stand, in their force, strength, and effect.

Sheriffs in their turns, and Stewards in their leets, rapes, and wapentakes, shall have authority to inquire of heretics; and every such presentment made in any turn, leet, etc., concerning heretics, shall be certified to the Ordinary. Every person presented or indicted of any heresy, or duly accused by two lawful witnesses, may be cited, arrested, or taken by an Ordinary, or other of the King's subjects, and committed to the Ordinary, to answer in open court, and being convicted shall abjure his heresies, and refusing so to do, or falling into relapse, shall be burned in an open place for example of others.

III.—VI.

VII. And where the great number of the King's subjects having little or no knowledge of letters have been put in opinion, that by divers laws, decrees, ordinances, and constitutions heretofore made by the bishop of Rome, called the Pope, and his predecessors, or by their authorities, for the advancement of their worldly glory and ambition, every man that in any thing speaketh or doth against the said pretended power or authority of the same bishop of Rome, or any of the said laws, decrees, ordinances, and constitutions, standeth in danger and is impeachable of heresy; which effect or matter, nor any such laws, decrees, ordinances, or constitutions, not approved and confirmed by Holy Scripture, was never commonly accepted or confirmed to be any law of God or man within this realm. "No speaking, doing, communication, or holding against the Pope, nor any speaking, doing, communication, or holding against any laws called spiritual laws, made by authority of the See of Rome, repugnant to the laws and statutes of this realm or the King's prerogative royal, shall be reputed heresy, or punishable as such." "Persons accused or indicted of heresy may be let to

bail by the Ordinaries, or by two justices of peace, except the Ordinary declare to the King's Council a reasonable cause why they should not be bailed."

(Ed. from *Statutes at Large of England and Great Britain*, Lond., 1811. III, p. 156.)

110. Submission of the Clergy

(25 HENRY VIII., c. 19, 1533-34)

Statutes at Large of England.

In the following Act, Henry practically assumes dominion over the English Church. Sections I, II, and VII were recited in a later Act and continued for three years. Later again, similar provisions were made, to endure for the life of the king. The effect of these enactments was to legally vest in the king that appellate jurisdiction which had hitherto been the prerogative of the Pope, and to abolish the control of convocations over ecclesiastical affairs.

AN ACT FOR THE SUBMISSION OF THE CLERGY TO THE KING'S MAJESTY

I. Where the King's humble and obedient subjects, the clergy of this realm of England, have not only acknowledged according to the truth, that the convocations of the same clergy are always, hath been, and ought to be, assembled only by the King's writ, but also submitting themselves to the King's Majesty, have promised *in verbo sacerdotii* that they will never from henceforth presume to attempt, allege, claim, or put in use, or enact, promulgate or execute any new canons, constitutions, ordinance provincial or other, or by whatsoever other name they shall be called in the convocation, unless the King's most royal assent and license may to them be had, to make, promulgate, and execute the same, and that his Majesty do give his most royal assent and authority in that behalf: And whereas divers constitutions, ordinances, and canons, provincial or synodal, which heretofore have been enacted, and be thought not only to be much prejudicial to the King's prerogative royal, and repugnant to the laws and statutes of this realm, but also overmuch onerous to his Highness and his subjects; the said clergy have most humbly besought the King's Highness that the said constitutions and canons may be committed to the examination and judgment of his Highness, and of two-and-thirty persons of the King's subjects, whereof sixteen to be of the Upper and Nether House of the Parliament of the temporality, and the other sixteen to be of the clergy of this realm; and all the said two-and-thirty persons to be chosen and

appointed by the King's Majesty; and that such of the said constitutions and canons as shall be thought and determined by the said two-and-thirty persons, or the more part of them, worthy to be abrogated and annulled, shall be abolished and made of no value accordingly; and such other of the same constitutions and canons as by the said two-and-thirty, or the more part of them, shall be approved to stand with the laws of God and consonant to the laws of this realm, shall stand in their full strength and power, the King's most royal assent being first had and obtained to the same: Be it therefore now enacted by authority of this present Parliament according to the said submission and petition of the said clergy, that they, nor any of them from henceforth, shall presume to attempt, allege, claim, or put in use any constitutions or ordinance, provincial or synodal, or any other canons, nor shall enact, promulgate, or execute any such canons, constitutions, or ordinances provincial, by whatsoever name or names they may be called, in their convocations in time coming (which always shall be assembled by authority of the King's writ) unless the same clergy may have the King's most royal assent and license to make, promulgate, and execute such canons, constitutions, and ordinances, provincial or synodal; upon pain of every one of the said clergy doing contrary to this Act, and being thereof convicted, to suffer imprisonment, and make fine at the King's will.

II. And forasmuch as such canons, constitutions, and ordinances, as heretofore have been made by the clergy of this realm, cannot now at the session of this present Parliament, by reason of shortness of time, be viewed, examined, and determined by the King's Highness and thirty-two persons to be chosen and appointed according to the petition of the said clergy in form above rehearsed; Be it therefore enacted by authority aforesaid, That the King's Highness shall have power and authority to nominate and assign, at his pleasure, the said two-and-thirty persons of his subjects, whereof sixteen [are] to be of the clergy and sixteen to be of the temporality of the Upper and Nether House of the Parliament; and if any of the said two-and thirty persons so chosen shall happen to die before their full determination, then his Highness to nominate other from time to time of the said two Houses of the Parliament, to supply the number of the said two-and-thirty; and that the same two-and-thirty, by his Highness so to be named, shall have power and authority to view, search, and examine the said canons, constitutions, and or-

dinances, provincial and synodal heretofore made; and such of them as the King's Highness and the said two-and-thirty, or the more part of them, shall deem and adjudge worthy to be continued, kept, and obeyed, shall be from thenceforth kept, obeyed, and executed within this realm, so that the King's most royal assent under his great seal be first had to the same; and the residue of the said canons, constitutions, and ordinances provincial which the King's Highness, and the said two-and-thirty persons, or the more part of them, shall not approve, or deem and judge worthy to be abolished, abrogated, and made frustrate, shall from thenceforth be void and of none effect, and never be put in execution within this realm. Provided always, That no canons, constitutions, or ordinances shall be made or put in execution within this realm by authority of the convocation of the clergy, which shall be contrary or repugnant to the King's prerogative royal, or the customs, laws, or statutes of this realm; anything contained in this Act to the contrary hereof notwithstanding.

III. And be it further enacted by authority aforesaid, That from the feast of Easter, which shall be in the year of our Lord God one thousand five hundred and thirty-four, no manner of appeals shall be had provoked or made out of this realm, or out of any of the King's dominions, to the bishop of Rome, nor to the See of Rome, in any causes or matters happening to be in contention, and having their commencement and beginning in any of the courts within this realm, or within any of the King's dominions, of what nature, condition, or quality soever they be of; but that all manner of appeals, of what nature or condition soever they be of, or what cause or matter soever they concern, shall be made and had by the parties aggrieved or having cause of appeal, after such manner, form, and condition as is limited for appeals to be had and prosecuted within this realm in causes of matrimony, tithes, oblations, and obventions, by a statute thereof made and established since the beginning of this present Parliament, and according to the form and effect of the said statute; any usage, custom, prescription, or any thing or things to the contrary hereof notwithstanding.

IV. And for lack of justice at or in any the courts of the archbishops of this realm, or in any the King's dominions, it shall be lawful to the parties grieved, to appeal to the King's Majesty in the King's Court of Chancery; and that upon every such appeal, a commission shall be directed

under the Great Seal to such persons as shall be named by the King's Highness, his heirs or successors, like as in case of appeal from the Admiral's Court, to hear and definitively determine such appeals, and the causes concerning the same: Which commissioners, so by the King's Highness, his heirs or successors, to be named or appointed, shall have full power and authority to hear and definitively determine every such appeal, with the causes and all circumstances concerning the same; and that such judgment and sentence as the said commissioners shall make and decree in and upon any such appeal shall be good and effectual, and also definitive; and no further appeals to be had or made from the said commissioners for the same.

V. And if any person or persons, at any time after the said feast of Easter, provoke or sue any manner of appeals, of what nature or condition soever they be, to the said bishop of Rome, or to the See of Rome, or do procure or execute any manner of process from the See of Rome, or by authority thereof, to the derogation or let of the due execution of this Act, or contrary to the same, that then every such person or persons so doing, their aiders, counsellors, and abettors, shall incur and run into the dangers, pains, and penalties contained and limited in the Act of Provision and *Præmunire* made in the sixteenth year of the King's most noble progenitor, King Richard the Second, against such as sue to the court of Rome against the King's crown and prerogative royal.

VI. Provided always, That all manner of provocations and appeals hereafter to be had, made, or taken from the jurisdiction of any abbots, priors, or other heads and governors of monasteries, abbeys, priories, and other houses and places exempt, in such cases as they were wont or might afore the making of this Act, by reason of grants or liberties of such places exempt, to have or make immediately any appeal of provocation to the bishop of Rome, otherwise called Pope, or to the See of Rome, that in all these cases every person and persons, having cause of appeal or provocation, shall and may take and make their appeals and provocations immediately to the King's Majesty of this realm, into the Court of Chancery, in like manner and form as they used afore to do to the See of Rome; which appeals and provocations so made shall be definitively determined by authority of the King's commission, in such manner and form as in this Act is above-mentioned; so that no archbishop nor bishop of this

realm shall intermit or meddle with any such appeals, otherwise or in any other manner than they might have done before the making of this Act; any thing in this Act to the contrary thereof notwithstanding.

VII. Provided also, That such canons, constitutions, ordinances, and synodals provincial being already made, which be not contrary or repugnant to the laws, statutes, and customs of this realm, nor to the damage or hurt of the King's prerogative royal, shall now still be used and executed as they were before the making of this Act, till such time as they be viewed, searched, or otherwise ordered or determined by the said two-and-thirty persons, or the more part of them, according to the tenor, form, and effect of this Present Act.

(Ed. from *Statutes at Large*, ed. cit., III, p. 162.)

III. The Act of Supremacy

(26 HENRY VIII, c. 1, 1535)

Statutes at Large of England

The Act of Supremacy was little more than an *ex post facto* announcement, yet it had far-reaching effect. It left no ground for retreat; the position so assumed must be at all hazards maintained.

THE KING'S GRACE TO BE ACKNOWLEDGED SUPREME HEAD

Albeit the king's majesty justly and rightfully is and ought to be the supreme head of the Church of England, and so is recognized by the clergy of this realm in their convocations, yet nevertheless for corroboration and confirmation thereof, and for increase of virtue in Christ's religion within this realm of England, and to repress and extirp all errors, heresies, and other enormities and abuses heretofore used in the same: Be it enacted by authority of this present Parliament, that the king our sovereign lord, his heirs and successors, kings of this realm, shall be taken, accepted, and reputed the only supreme head in earth of the Church of England, called *Anglicana Ecclesia*; and shall have and enjoy, annexed and united to the imperial crown of this realm, as well the title and style thereof, as all honours, dignities, preeminencies, jurisdictions, privileges, authorities, immunities, profits, and commodities, to the said dignity of supreme head of the same church belonging and appertaining.

And that our said sovereign lord, his heirs and successors, kings of this realm, shall have full power and authority from time to time to visit, repress, redress, reform, order, correct, restrain, and amend all such errors, heresies, abuses, of-

fences, contempts, and enormities, whatsoever they be, which by any manner spiritual authority or jurisdiction ought or may lawfully be reformed, repressed, ordered, redressed, corrected, restrained, or amended, most to the pleasure of Almighty God, the increase of virtue in Christ's religion, and for the conservation of the peace, unity, and tranquility of this realm; and usage, custom, foreign laws, foreign authority, prescription, or any other thing or things to the contrary hereof notwithstanding,

(Ed. from *Statutes at Large*, ed. cit., III, p. 187.)

112. Denial of the Authority of the Pope

(28 HENRY VIII., c. 10, 1536-37)

Statutes at Large of England

The absolute renunciation of all allegiance to the See of Rome was the natural corollary to the Act of Supremacy, and the Act containing this renunciation is one of the shortest in the statute books. Yet its meaning was unmistakable, and it gave promise of stern determination. The Act was repealed by the general words of I and II. Philip and Mary, c. VIII; but it was afterward practically re-affirmed by Elizabeth.

AN ACT EXTINGUISHING THE AUTHORITY OF THE BISHOP OF ROME

If any person shall extol the authority of the bishop of Rome, he shall incur the penalty of *præmunire* provided by *Stat. 16 R. 2 c. 5*. Every ecclesiastical and lay officer shall be sworn to renounce the said bishop and his authority, and to resist it to his power, and to repute any oath taken in maintenance of the said bishop, or his authority, to be void; and the refusing of the said oath, being tendered, shall be adjudged high treason.

(Ed. from *Statutes at Large*, ed. cit., III, p. 262.)

113. The Dissolution of the Monasteries

(27 HENRY VIII., c. 28, 1535-36)

Statutes at Large of England

The dissolution of the lesser monasteries was a severe blow to the Church of Rome. The following Act sets forth the reasons assigned for the suppression of these houses, as well as the determination that they shall be suppressed. It will be noted that the greater monasteries are highly spoken of; the good faith of the statements can be judged by the subsequent destruction of the last citadels of the old faith.

AN ACT THAT ALL RELIGIOUS HOUSES UNDER THE YEARLY REVENUE OF TWO HUNDRED POUNDS SHALL BE DISSOLVED AND GIVEN TO THE KING AND HIS HEIRS.

“Forasmuch as manifest synne, vicious, carnal, and abominable Living is daily used and committed commonly in such little and small Abbeyes, Priories, and other Religious Houses of Monks, Canons, and Nuns, where the Congregation of such Religious Persons is under the Number of twelve Persons, whereby the Governors of such Religios Houses and their Covent spoyle, destroye, consume, and utterly waste, as well their Churches, Monasteries, Priories, principal Houses, Farms, Granges, Lands, Tenements, and Heriditaments, as the Ornaments of their Churches, and their Goods and Chattels, to the high Displeasure of Almighty God, Slander of good Religion, and to the great Infamy of the King's Highness and the Realm, if Redress should not be had thereof. And albeit that many continual Visitations hath been heretofore had, by the Space of two hundred Years and more, for an honest and charitable Reformation of such unthrifty, carnal, and abominable living, yet nevertheless little or none amendment is hitherto had, but their vicious living shamelessly increaseth and augmenteth, and by a cursed Custom so rooted and infected, that a great Multitude of the Religious Persons in such small Houses do rather choose to rove abroad in Apostacy, than to conform themselves to the Observation of good Religion; so that, without such small Houses be utterly suppressed, and the Religious Persons therein committed to great and honourable Monasteries of Religion in this Realm, where they may be compelled to live religiously, for Reformation of their lives, the same else be no Redress nor Reformation in that Behalf. In Consideration whereof, the King's most Royal Majesty being supreme Head on Earth, under God, of the Church of *England*, dayly studying and devysing the Increase, Advancement, and Exaltation of true Doctrine and Virtue in the said Church, to the only Glory and Honour of God, and the total extirping and Dystruction of Vice and Sin, having Knowledge that the Premisses be true, as well by the Accompts of his late Visitations, as by sundry credible Informations, considering also that diverse and great solemn Monasteries of this Realm, wherein (Thanks be to God) Religion is right well kept and observed, be destitute of such full Number of Religious Persons, as they ought and may keep, hath

thought good that a plain Declaration should be made of the Premises, as well to the Lords Spiritual and Temporal, as to other his loving Subjects the Commons, in this present Parliament assembled: Whereupon the said Lords and Commons, by a great Deliberation, finally be resolved, that it is and shall be much more to the Pleasure of Almighty God, and for the Honour of this his Realm, that the Possessions of such small Religious Houses, now being spent, spoiled, and wasted for Increase and Maintenance of Sin, should be used and committed to better Uses, and the unthrifty Religious Persons, so spending the same, to be compelled to reform their Lives." And thereupon most humbly desire the King's Highness that it may be enacted by Authority of this present Parliament, That his Majesty shall have and enjoy to him and his Heirs for ever, all and singular such Monasteries, Priories, and other Religious Houses of Monks, Canons, and Nuns, of what kinds of Diversities of Habits, Rules, or Order soever they be called or named, which have not in Lands, Tenements, Rents, Tithes, Portions, and other Hereditaments above the clear yearly Value of two hundred Pounds. And in like manner shall have and enjoy all the Sites and Circuits of every such Religious Houses, and all and singular the Manors, Granges, Meases, Lands, Tenements, Rents, Reversions, Services, Tithes, Pensions, Portions, Churches, Chapels, Advowsons, Patronages, Annuities, Rights, Entries, Conditions, and other Hereditaments appertaining or belonging to every such Monastery, Priory, or other Religious House, not having, as is afore said, above the said clear yearly Value of two hundred Pound, in as large and ample manner as the Abbots, Priors, Abbesses, Prioresses, and other Governors of such Monasteries, Priories, and other Religious Houses now have or ought to have the same in the right of their Houses. And that also his Highness shall have to him and to his Heirs all and singular such Monasteries, Abbeys, and Priories which at any Time within one Year next before the making of this Act hath been given and granted to his Majesty by any Abbot, Prior, Abbess, or Prioress, under their Covent Seals, or that otherwise hath been suppressed or dissolved, and all and singular the Manors, Lands, Tenements, Rents, Services, Reversions, Tithes, Pensions, Portions, Churches, Chapels, Advowsons, Patronages, Rights, Entries, Conditions, and all other Interests and Hereditaments to the same Monasteries, Abbeys, and Priories, or to any of them appertaining or be-

longing; to have and to hold all and singular the Premisses with all their Rights, Jurisdictions, and Commodities, unto the King's Majesty, and his Heirs and Assigns for ever, to do and use therewith his and their own Wills, to the Pleasure of Almighty God, and to the Honour and Profit of this Realm.

(Ed. from *Statutes at Large*, ed. cit., III, p. 256.)

114. Confession made with Surrender of a Monastery

Records, Burnet

When the monasteries were surrendered, their heads were induced by promises or threats to make confessions justifying the action of the king. The document given is typical of the rest, and its veracity is at least questionable, however the falsehood may have been excused by the necessities of the case.

Forasmuch as we, Richard Green, abbot of our monastery of our blessed Lady St. Mary of Betlesden, and the convent of the said monastery, do profoundly consider, That the whole manner and trade of living, which we and our pretended religion have practised, and used many days, does most principally consist in certain dumb ceremonies, and other certain constitutions of the bishops of Rome, and other forinsecal potentates, as the abbot of Cistins, and therein only noseled, and not taught in the true knowledge of God's laws, procuring always exemptions of the bishops of Rome from our ordinaries and diocesans: submitting ourselves principally to forinsecal potentates and powers, which never came here to reform such disorders of living and abuses, as now have been found to have reigned among us. And therefore now assuredly knowing, that the most perfect way of living is principally and sufficiently declared unto us by our master Christ, his evangelists and apostles, and that it is most expedient for us to be governed and ordered by our Supreme Head, under God, the king's most noble grace, with our mutual assent and consent, submit ourselves, and every one of us, to the most benign mercy of the king's majesty; and by these presents do surrender, etc.

(Collection of Records in vol. II, p. LXVII, *History of the Reformation of the Church of England*, G. Burnet, Lond., 1880.)

115. Directions for Visitation of Monasteries

Records, Burnet

Before a religious house was suppressed it was visited and inspected. The general directions to the king's agents are given in the important document given below. This is presented in full because of its great value in describing the ideal manage-

ment of a monastery and its implication of prevailing irregularities.

INSTRUCTIONS FOR THE GENERAL VISITATION OF THE MONASTERIES

'Articuli Regiæ Inquisitionis, in Monasticam vitam agentes, exponendi, et præcipue in exemptos a jurisdictione Diocæsana, jam tantum Regiæ Majestati et ejus jurisdictioni subditos et subjectos, ac hujus inclyti sui Regni Statutis et legibus, nullisq; aliis penitus, obnoxios et astrictos.

1. *In primis*, Whether divine service be solemnly sung, said, observed, and kept, in this monastery, according to the number and the abilities thereof, by night and by day, in due time and hours? and how many be present commonly at mattins, and other service, and who be absent, and so accustomed to be, without cause or sickness?

2. *Item*, How many monks, canons regulars, or nuns, be within this monastery, and how many there ought to be, and whether the number be complete according to the founder's will, or the statutes, ordinances, and laudible custom of this house; and whether the number be augmented or diminished now of late?

3. *Item*, Who were the first founders of this house?

Fundationem primam, secundam, tertiam, et quot-quot habent, exhibeant.

4. *Item*, Whether this house hath had any increase of lands given to it sithence the first foundation thereof? by whom? by how many? and when?

5. *Item*, To what sum of money those revenues and rents of this house do extend and amount unto yearly.

6. *Item*, Whether this house was ever translated from one habit and order to another? by whose authority? and for what cause?

Translationem exhibeant.

7. *Item*, How the lands and possessions appertaining unto this monastery, given by the first founder, and all other lands given sithence the first foundation, were granted, given, and established, and so first brought to *morte main*? whether by the only authority of the giver, or by the authorization of the prince for that time reigning, and by what tenor and form ye hold them?

Donationem et Confirmationem exhibeant.

8. *Item*, What evidence have you to show for all and singular your lands, manors, tenements, and other your possessions mortisate, and given unto you, and this your monastery?

9. *Item*, Wherefore, for what causes and considerations ye were exempt from your diocesan? and what was your suggestion and motive at the obtaining of your said exemption?

Exemptionem exhibeant.

10. *Item*, Whether ye have any private, peculiar, or local statutes, confirmations, ordinances, or rules, made only for the behoof, good order, and singular weal of this house, besides the rules of your profession? and whether they were made either by your founders before your exemption, or by the good fathers of this house, with the whole consent of the brethren, being sinneth your exemption; to what use they were made, and how ye observe them?

Statuta illa localia, et alia quotquot habent, exhibeant.

11. *Item*, By what way and form the master of this house was elected and chosen? And whether all the brethren having, or ought to have by the law, statutes, or laudable custom of this house, voices in the election, were present in the same election, or lawfully called or cited to it?

12. *Item*, Whether any persons excommunicate, suspended, or interdicted, did give voices in the same election?

13. *Item*, Within what time after the election was made and done, the master of this house was confirmed? and by whom?

14. *Item*, Whether unto the confirmation, all that had interest, or that would object against the same, were lawfully cited, monished, and called?

Exhibeat Electionem, Confirmationem, et Titulum suæ Incumbentiæ.

15. *Item*, What rule the master of this house, and other the brethren, do profess?

16. *Item*, How many be professed, and how many be novices; and whether the novices have like habit, or use to wear an habit distinct from the habit of the brethren professed?

17. *Item*, Whether ye do use to profess your novices in due

time, and within what time and space after they have taken the habit upon them?

18. *Item*, Whether the brethren of this house do know the rule that they have professed, and whether they keep their profession according to that their rule and custom of this house; an in especial, the three substantial and principal vows, that is to say, *poverty*, *chastity*, and *obedience*.

19. *Item*, Whether any of the brethren use any propriety of money or of plate in their chambers; or of any other manner thing unwarre of the master, and without his knowledge and license, or by his sufferance and knowledge? and for what cause?

20.

21.

22.

} [These relate to questions of chastity.]

23. *Item*, Whether the brethren of this house keep their obedience, being ready at their master's commandment, in all things honest, lawful, and reasonable?

Sequuntur Regulæ Cæremoniales.

24. *Item*, Whether ye do keep silence in the church, cloister, fraitry, and dormitory, at the hours and time specified in your rule?

25. *Item*, Whether ye do keep fasting and abstinence, according to your rules, statutes, ordinances, and laudable customs of this house?

26. *Item*, Whether ye abstain from flesh in time of Advent, and other times declared and specified by the law, rules, and laudable customs of this house?

27. *Item*, Whether ye wear shirts and sheets of woollen, or that ye have any constitution, ordinance, or dispensation, granted or made to the contrary, by sufficient and lawful authority?

Profitentes Regulam Benedicti quam arctissime tenentur ad prædicta Cæremonialia observanda.

28. *Item*, Whether ye do sleep altogether in the dormitory, under one roof, or not?

29. *Item*, Whether ye have all separate beds, or any one of you doth lay with another?

30. *Item*, Whether ye do keep the fraitry at meals, so that two parts, or the least, the two part of the whole

covent be always there, unless the master at every one time dispense with you to the contrary?

31. *Item*, Whether, ye do wear your religious habit continually, and never leave it off but when ye go to bed?

32. *Item*, Whether every brethren of this house have lightly departed hence, and hath gone to any other house of like order and profession, without special letters and license of their master?

33. *Item*, Whether the master and brethren of this house have received and admitted any brother of another house, without special license and letters of his master and head?

34. *Item*, Whether any of you, sithence the time of your profession, hath gone out of this house to his friends, or otherwise?

35. *Item*, How oftimes he did so, and how long at every time ye tarried forth?

36. *Item*, Whether ye had special license of your master so to go forth, or not?

37. *Item*, Whether at every time of your being forth, ye changed or left off your habit, or every part thereof?

38. *Item*, Whether ye, or any of you be, or hath been, in manifest apostacy, that is to say, fugitives or vagabonds?

39. *Item*, For what cause or occasion ye have so gone forth and been in apostacy? and whether the cause of your going forth was by reason of the great cruelty of your master, or by his negligence, not calling you home to your cloister?

40. *Item*, Whether ye be weekly shaven, and do not nourish or suffer your hair to be long? and whether ye wear your apparel according to the rule, not too excessive nor too exquisite; and in likewise the trappos of your horses, and other your bearing beasts?

41. *Item*, Whether the master and head of this house do use his brethren charitably, without partiality, malice, envy, grudge, or displeasure, more showed to one than to another?

42. *Item*, Whether he do use his disciplines, corrections, and punishmentes upon his brethren, with mercy, pity, and charity, without cruelty, rigorousness, and enormous hurt, no more favouring one than another?

43. *Item*, Whether any brother, or religious person of this house, be incorrigible?

44. *Item*, Whether the master of this house do use his brethren charitably when they be sick and diseased? and whether in time of their sickness he do procure unto them physicians, and all other necessities?

45. *Item*, Whether he make his accompts (as he ought to do) once every year before his brethren, and chiefly the seniors and officers, to the intent they may be made privy to the state and condition of the house, and know perfectly the due administration thereof?

46. *Item*, Whether the prior, subprior, sellerar, kitchener, terrure, sacristen, or any such like officer, having administration of every manner revenues of this house, do make his whole and true accompt, according as he is bound to do, not applying anything by him received to his own proper use or commodity?

47. *Item*, Whether any religious person of this house do bear, occupy, or exercise more offices than one, for, and to his own singular commodity, advantage, or profit, by the partial dealing of the master?

48. *Item*, Whether all and singular the revenues and profits of this house be converted and employed to the behove and use thereof, and of the brethren, according to the founder's mind and giver?

49. *Item*, Whether the master do make sufficient reparations upon his monastery, as the church and all other housing thereto adjoined, and also upon all other the lands, granges, farms, and tenements belonging to the same; and whether he suffer any dilapidation, decay, or ruin in any part of them?

50. *Item*, Whether there be any inventory made of all and singular the moveables, goods, which from time to time have been, and yet be in this house, as of jewels, reliques, ornaments, vestiments, ready money, plate, bedding, with other utensils; also of corn, chattels, and other commodities, to the intent the state and condition of this house may be always known?

51. *Item*, That ye express truly and sincerely the whole state and condition of this house, as in money, plate, cattle, corn, and other goods?

52. *Item*, Whether this monastery be indebted? to whom? and for what cause?

53. *Item*, Whether any of the lands be sold, or mortgaged? and for what sums?

54. *Item*, Whether any be let to farm by the master of this house for term of years, and for how many years? and specially, whether they be letten for small sums, or for less sums than they were wont to be letten for, to the intent to have great sums of ready money beforehand?

55. *Item*, Whether he do enforce, compel or constrain his brethren, or any of them, to consent to the sealing of any leases, grants, farm-holds, annuities, corrodies, or any other alienations?

56. *Item*, Whether the plate and jewels, or any part or parcel thereof, or of any other moveable goods of this house be laid to pledge, sold, or alienated for a time, or for ever? for what cause, and to whom? or otherwise embezzled, or consumed?

57. *Item*, Whether the master of this house be wont to give under his seal or office, or convent-seal, farms, corrodies, annuities, or offices, to his kinsfolk, alliances, friends, or acquaintances, for term of years, or otherwise, to the hurt, hindrance, damage, and impoverishment of this house?

58. *Item*, Whether he be wont to grant any patent, or convent-seal, without the consent of his brethren?

59. *Item*, Whether the convent-seal of this house be surely and safely kept under three keys; that is to say, one remaining and being in the custody of the master, and the other two in the custody of two seniors?

60. *Item*, Whether the muniments and evidences of the lands, rents, and revenues of this house, be safely kept from vermin and moistness?

61. *Item*, Whether the master do keep hospitality according to the ability of his house, and in like manner as other fathers hereof have done heretofore?

62. *Item*, Whether the master of this house in receiving any novice, being of willing and toward mind to enter into religion, hath demanded or received, or convented to receive any money, rewards, or any other temporal commodities of him so entering, or willing to enter, or of any other his friends? and whether for not promising, granting, or giving such rewards or gifts, any hath been repelled and not received?

63. *Item*, Whether the novices, and other received into religion, have a preceptor and master deputed unto them to teach them grammar and good letters?

64. *Item*, Whether any senior of this house be deputed to declare, inform, and instruct them their rules, and whereunto they shall be bounden to observe and keep after their profession?

65. *Item*, Whether any of you have taken upon him the habit and profession of your religion, chiefly for the intent, hope, or trust to be made head and master of this house?

66. *Item*, Whether the master of this house, in giving any advocation, nomination, presentation, or collation of any parsonage, vicarage, chapel, or benefice of the patronage and gift of this house, do take or use to take any manner pension, portion, or other commodity or gains; or else doth make any convention or compaction, whereby any lucre many ensue to him in that behalf?

67. *Item*, Whether he do receive, or use to receive, the fruits and revenues of every such benefice vacant, or use to borrow any money of him to whom he intendeth to give such benefice unto, expressly covenanting or intending, that he so obtaining the said benefice shall freely and clearly remit the said money so borrowed?

68. *Item*, What and how many benefices the master of this house doth occupy and keep in his own hands?

69. *Item*, Whether the same benefices be appropriate and united to this house by sufficient authority?

70. *Item*, Whether the master of this house doth make distributions amongst the parishioners of the benefices appropriate, and doth keep and observe all and singular other provisions and ordinances specified and expressed in the appropriations of the same benefices?

*Exhibeant omnes et singulas Appropriationes,
una cum Ordinationibus et Donationibus Vi-
cariatum.*

71. *Item*, Whether he do promote unto such benefices as be of his gift sufficient and able persons in learning, manners, and virtue?

72. *Item*, Whether any brother of this house do serve any parish-church, being appropriate and united to the same, and how many churches appropriate to be so served?

73. *Item*, Whether the master of this house hath and possesseth any benefice with cure, or any other dignity with his abbey?

Si aliquod tale habet, Dispensationem exhibeat.

74. *Item*, Whether the master of this house at any time since he was first made abbot, or master, did know or believe that he was suspended, or excommunicate, either by the law, or by any judge; and whether he knowing or supposing himself so to be, did sing mass in the mean time, and before he was absolved?

*In Visitatione Monialium ad Præmissa addantur
hæc.*

75. *Item*, Whether this monastery hath good and sufficient enclosure, and whether the doors and windows be diligently kept shut, so that no man can have any entry into the same or any part thereof at inconvenient times?

*Propter quod necessarium erit Visitatori circum-
ire Monasterium, ac videre et rimare dis-
positionem ædificiorum, et an sint aliqua loca
pervia per quæ secrete intrari possit; et una
secum habeat Abbatissam cum duabus aut
tribus senioribus Monialibus, a quibus tum
interroget, an ostia Monasterii singulis qui-
busque noctibus sub clavibus clausa tenean-
tur, et quæ earum Monialium senio confecta-
rum, vel an Abbas ipsa clavium custodiam
tempore nocturno habeant et teneant: nam
non est tutum clavium custodiam Junioribus
committere.*

76. *Item*, Whether strangers, both men and women, useth commonly to have communication with the sisters of this house, without license of the abbess or prioress, specially in secret places, and in the absence of their sisters?

77. *Item*, Whether any sister of this house were professed for any manner of compulsion of her friends and kinsfolks, or by the abbess or prioress?

78. *Item*, Whether any of the sisters of this house useth to go forth any whither out of the precinct thereof, without special license of their abbess or prioress?

79. *Item*, Whether any sister doth use her habit continually out of her cell?

80. *Item*, Wherein every one of you occupieth herself, beside the time of divine service?

81. *Item*, Whether any sister of this house hath any familiarity with religious men, secular priests, or lay-men, being not near of kin unto them?

82. *Item*, Whether any sister of this house hath been taken and found with any such accustomedly so communing, and could not shew any reasonable cause why they so did?

83. *Item*, Whether any of you doth use to write any letters of love or lascivious fashion to any person, or receive any such, or have any privy messengers coming or resorting unto you, or any of you, with token or gifts, from any manner secular person or other?

84. *Item*, Whether any of you doth use to speak with any

manner of person, by night or by day, by grates or back windows, or other privy places within this monastery, without license of your head?

85. *Item*, Whether the confessor of this house be a discreet man, of good learning, virtue and honest behaviour, of good name and fame, and whether he hath been always so taken?

86. *Item*, How oftimes in the year the sisters of this house useth to be confessed and communicate?

Restat pro Ecclesiis Collegiatis, Hospitalibus, Ecclesiis Cathedralibus, Parochialibus, Ecclesiis, Episcopo, et Archiepiscopo, pro ordine Jerosolomitaram?

Exhibeant omnia scripta, munimenta, Inventaria, Scedulas quascunque, unde aliquid cognitionis eorum reformationi Monasteriorum, sive domorum utilitati, necessariæ explicari, aut quoquo modo colligi possit.

(Collection of Records, vol. II, p. lix. *History of the Reformation of the Church of England*, ed. cited.)

116. Letters concerning the Suppression of the Monasteries

Original Letters

The agents who were sent to suppress the monasteries have left many letters detailing their acts in this office. Several typical documents are here given. The ancient form of spelling, with all the inconsistencies of each writer in this respect, has been preserved.

(a) DR. LONDON TO THE LORD PRIVY SEAL

Original Letters

In my most humble maner I have me commendyd unto your gudde Lordeschippe. I have with moche adoo dispatchyde the Priory of Black Monks at Coventrye, the Charterhowse, and Combe Abbay. The Priory wasse in dett befor he com ther, and he hathe made me an apparent reasonable accompte. I have left the Churche and Howse vnspoylde and vndefacyd, because as yet I do nott know the Kings Grace's pleasur and yowrs what schalbe don therwith. At the Charter howse I found scase the valor of xx^{li} nobles worth of gudds to dispatch the hole Howse. Howbeit Godde hath so disclosyd ther crafty dealing, that I have gevyn every brodor xl^s towards ther apparell, have payd all the servants wages, have gevyn to every brodor his...celle,

saving the Howse and a vestymēt, have payde all ther detts within x^{li.}, and yit schall the Kings Grace have above cc. vnc. of plate ther, wher I found but iiij. chalyces scaslly waying all iiij. xl. vnc. I have gevin the Prior a salt of syluer with a cover, a drynking cuppe of syluer with a cover, a maser, a chales, a suite of vestymēts with bedding and other stuff, lyke an honest man, and so I have dispacchyd that House clerlye.

At Combe, I have left the hole Howse with implymēts vnspoyled thorowlye. Hardforde now schyryue of Coventrye informyd me that the Abbot of Combe hadde ccccl^{li.} in a fetherbedd at hys broders Howse. Of truythe I serchyd the bedd, and the Abbot hymself, with owt any difficulty, confessed unto me what money was ther, and farther informyd me of every thing he hadd lyk an honest man, and of truythe ther wasse no more monye ther in that bedde but xxv^{li.}, wiche vpon hys oothe he tolde me that he putt yt ther to paye certen detts with all now at Candelmas, wiche in dede ys trew dett, and he layd those things at his brothers bycause he cowde yvill trust any servant he hadde. He surrenderyd hys Howse the same day twelve monyth he was made Master, and therfor every thing consideryd he left hys Howse in competent gudd state. The dyspacching of that Howse wasse som thing chardgeable for I founde ther xv. monks and lxviiij. seruants. I have made safe the evydences in every Howse wher I com, and in som of them I founde the evydences dispersyd and neglecte, moche pytie to see yt. Wherfor I beseke your Lordeschippe that aswell to stay the spoyle of the Howsys as for safeguarde of suche evydences the Surveyors may com as spedly after me as may be.

I have folowyd your pleasure for your servant M. Whalley, at Pollesworth, wherfore I besek your Lordeschipp to remembre M. Cheyrey, at Bowsvale, Charterhowse Monks bye Notingham, or in som other place.

If I hadde made rasch ryddyng of thees iiij. Howsys I hadde don the Kings Grace butt yvell service. And I trust now I have don both for hys Grace is profytt, and as every thing is savyd and all parts well pleasyd, I schall forwards mak all the spede I can possiblie.

I have of thees iiij. Howsys above DCCC. vnc. of plate, wiche schalbe at London safely caryede by my commyng thedyr. And my servant now shall delyuer to your Lordeschippe such ornaments as I have sent uppe. I besek your Lordeschippe to take these things I do in gudd part, for of

my fayth I do truly my best diligence to serve the Kinge as
our Lord knoweth, who with encrease of moch honor longe
preserve your gudde Lordeshippe

Your most bounden orator and servant,

JOHN LONDON.

To the right honerable and my most
singuler goode Lorde, my Lorde of
Prive Sealle.

(*Original Letters illustrative of English History*, ed. H. Ellis, Lond., 1846.
Third series, vol. III, p. 183.)

(b) JOHN TREGONWELL TO SECRETARY CROMWELL

Original Letters

Pleasyth you to be advertised that after my departyng
from Oxforde I went to Godstowe, where I fownde all thyngs
well, and yn good order aswell yn the Monasteri and the
Abbas there, as also yn the Convent of the same, excepte
that one sister xiiij. or xiiij. yers past, beyng then of a nothere
howse, brake her chastyte (*quia peperit*), the whych for cor-
reccyon and punysment afterward was sent to Godstowe by
the Byschope of Lyncolne, where now and euer sethens that
tyme she hath levyd vertuowse.

From thens I went to Ensham, where I fownde a rawe
sort of Relygouse parsons and offences emongst them (al-
moste yn all kyndys of synne commyttede, *et etiam crimen
pessimum*); for the whych offences they have byne pun-
yschede by theire ordynarye in his Visitation. Yet by as
myche as I can perceve by inquisition th' abbot ys chaste of
hys levying, and dothe right well over loke the reparracōns
of his Howse, to whom I can obiecte nothyng but that he ys
neglygent yn over seyng hys bretherne. He sayethe that
hys dayly ynfyrmty is th'occasion therof, whych ynfyrm-
mytye somewhat dyd appere by hys face to be trewe.

From Ensham to Bruwerne, wher th'abbot ys (as hyt ap-
peryth to me) not only vertuowse and well lernye in holy
Scripture, but also hathe ryght well reparyde the rewen and
dekeye of that howse, lefte by hys predycssors neglygens,
and the Convent whych heretofore were insolent) byn now
brought to good order.

From Brewerne, I rode to Wraxton, a Howse of smalle
rents, and stondyth moast by husbandry. The Prior there
althoghe he be a good husbände and kepyth good hospitalite
to hys abylyte, yet he is rewde and unlernyd. *Et qualis
pater tales filij.*

From thens to Clathercott a Howse of th'Order of the Gilbertynes, where I fownde iij. Chanons beside the Pryor. That Howse ys olde, fowle, and fylthe. Whethere there levying be accordyng, I cannot tell, for they desyryd me that I wolde not vyset them by cause (as they sayd) that yow hadde gevyne (by your comyssion) full autoryte to the Prior of Semperyngham to vyset all there Order, so that no man but he shulde medle with that Order; and by cause I wolde not *mittere falcem in messem alienam* with owt your pleasure to me knowen, I departed thens *negotio infecto*.

And from that howse of the Gilbertynese I came to a Howse of Nunnes called Catysby of lxxxx^{li} landys yerly, of th'order of Cistiowxe, under my Lorde of Lyncolnes jurisdition (as I suppos) by usurpation. For that Order as you knowe hathe allwayes byn exempte from the Byschope. The Piores there ys a ryght sadde matrone, the systers also there now beyng by the space of xx^{ti} yeres hath byn (by as myche as I can lerne) without suspicōn of incontynent levying.

From Catesby I rode to Chanons Asbye whych howse is Clx^{li} yn dette, by reason of the late preferment of the Prior there now beyng. The Howse also, by the neglygens of hys predycessor, ys yn rewen and dekey. Howbehyt the sayde Prior (all thought he be unlernyde) ys dysposed to thryve, and by the lernyng and good example of levying of the Supprior of that Howse, the relygowse men there byn lyke to doo well.

From Chanons Asbye, I rode to Chacombe, the Prior ys newly come thether whoo ys competently well lernyde in holy Scripture. The Chanons byn rewde and vlernyde. He begynnyth to bryng them to some order. I fere nothing yn hym but neglygens and overmyche famylyarite which he vseth amongst them.

From Chacombe, I came to Burcestre, ther I fynde that the Prior doth well over loke his bretherne, and also the profettys of hys Howse. His said bretherne by hys tyme hathe byn yn good order, exceptyde one (for fray of punysment for hys incontentant levying) ran away and soo he remaynyth at thys tyme yn apostacye.

From thens, yester nyght, I came to Stoodlye. From thens, I yntende to Notley, and thens to Tame Abbeye, and last of all to Dorchester, where I make an end vnto the tyme I may knowe your farder pleasure, whych (Gode wyll) I shall accomplysche. Vpon Frydaye nexte, I trust to be

redye to come to your Masterschype accordyng to your commaundement sent to me by yo letters, besechyng you that I maye knowe whethere you wyll remayne yn the Cowrte or returne to London. And thus the holy Goast preserve you. Frome Stoodley, the xxvijth day of Septembre.

Yours moast bownden

JOHN TREGONWELL.

To the ryght honerable Mr. Thomas Cromwell, Cheff Secretarye to the Kynges Maiestye, be this dd. w^t speade.

(*Original Letters*, ed. cit., III, p. 37.)

(c) JOHN LONDON TO LORD CROMWELL

Original Letters

In my most humble manner I have me comēdyd unto your gudde Lordeshipp, as your most boundon orator and servant. I have not so moche rasyd Howses I have be at as I perceve the Kings Grace and your Lordeschippe ys informyd, and hadde rasyd noon saving for the words of suche Comissions as I have to schew, and dydd nott extremely so do butt wher necessitee compellyd me by reason of the importuntye of the people, wiche els wold have pilled all so as the Kings Grace schulde have hadd no profytt of those Howses; and in every place I savyd the hole ledd unto the Kings Graces use, and the hole plate. Yet have I be in som very beggarly Howses, as now I am at oon, the Whyte Fryers in Northampton, wher all they have ys nott able to pay ther detts. And bravely I will reherse what I dydd in euery Howse.

At Reding I dydd oonly deface the Church; all the windoes being full of Fryers; and left the roff and wallys hole to the Kings use. I solde the ornaments and the sellys in the dorter and certen utensyls wiche els wold have be stolen as dyvers were indede.

At Aylesbury, I founde them very powr and in dett. Ther ornaments wor very coursse and very litill stuff of howshold. Ther I oonly solde the glasse wyndoes and ther ornaments with ther vtensyles. I left the Howse hole and oonly defaced the Church. Ther the hole church ys well coveryd with ledd, and a gudd new roff.

At Bedford, I dydd sell the ornaments of ther church and

cēten vtensiles. All the ledde I savyd with certen vtensyles, because I myzt leve them in saff custody with Mr. Gostwike.

At Stamford, I left in the Grey Fryers all ther brewyng vessels, and ther kechyn stuff wasse so gud that I cowde gete butt viij^s for all. I solde ther ornaments and glasse of ther churche with certen stuff, and solde no glass in the Grey, Whyte, or Blacke Fryers, saving oonly in ther churches. At the Austen Fryers I sold all there glasse, for els all wold have be stollyd, ffor it stondeth owt of the town. In thre Fryers ther I sold ther brewyng vessels wich wer very ny worn.

In Coventry, I dydd partly rase that Howse of the Gray Fryers, thou after the powr people lay so sore vpon ytt. Butt the Whyte Fryers I dydd litill vnto.

At Warwick, the Fryers Howse ys without the town, an olde ruynose howse and no ledd butt gutters and the coueryng of the steple. Ther I defacyd the church wyndoes and the sellys of the dorter as I dydd in euery place saving in Bedford and Aylisbury wher were few byars. I pullyd down no Howse thorowly at noon of the Fryers: butt so defacyd them as they shuld not lyztly be made Fryerys agen.

At Tellisford Crosse Fryers, I have oonly recyvyd the surrendere: and have left the Howse with all the stuff in safe custody with the late mynyster and oon of the Kings seruants dwelling therbye. In that Howse I must farther know your Lordships pleasur or I do any more, as by my servant I shall shortly more at lengeth expresse every thing. Ther wasse a fonde fasschon of Idolytrye. In the body of the Churche wasse an Image at an Awters end callyd Mayden Cutbrogh, and vnder her feete wasse a trowgh of wodde descending undre the Awter wich wasse holow. Thyder resortyd suche as wer trobelyd with the hedde ache, or hadde any slottiche wydowes lockes, viz. here growen to gether in a tuffe. Ther must they putt in to the trowgh a peckke of oots, and when they wer oons slydyd vndre the Awter, the Crosse Fryers schuld behynd the Awter pryvily stele them owt, and the sykk person must give to the Fryer a peny for a pynte of these Maydon Cutbrogh oots, and then ther heds schuld ak no more till the next tyme. I have pullyd downe thys Idoll with herre manage.

At Northampton, I fynd the Prior of Augustyns lyk a Fryer, and oon of the most unthrifits that yet I have mett with all: yet have I found butt few trew or gud, and amongs many blessyd reformations don by the Kings Grace, I sup-

pose thys be nott the lest, vtterly to suppress theis Fryars, in whom I fynd so moch dissymylation as may be in men. I trust to bring all ther falshudds here to lyzt, butt in the mean tyme I am fayne to sett the Prior and almost all hys brethern in warde. They have delyuered owt of ther Howse all ther plate and gudd stuff, and made billes of sale and knowledging of receipt of certen sommys of money wher they receyvyd, nor owzt, oon peny, and all to disseyve the Kinge. I have in som of those billes her enclosyd, and moo I will have or I depart, and have agen the best stuff I saw yet, and more I trust to have. Howbeit by hys own confession he made away thys yere above a Cⁱⁱ plate. He ys a great lyar and a gyvelar [shuffler].

I will hensforth deface no Howse unlesse I have your or the King's Grace speciall comaundment. Butt then if ther be no Surveyor to do ytt immedyaty or som suer man to inhabitt the same, the Howsys will be so spoyld as litill profytt will com of them. I thowzt I dydd for the beste in defacinge those Howses, and have to the Kings Grace use above all, dispacchyng of the Fryers, payng ther detts and rewarding every oon of them, savyng also all the coveryng and wallys of the Howses, aswell in ledde, slatt, as tyle, and my chardges of expens born, and all the plate also thorowly sayyd whole to the Kings use, CCⁱⁱ and above in gudd gold. And have also sayyd to the Kings use the best ornaments wher any were with all. I will now owt of hand upon All Halon tyde send vppe or I execute any of these commissions last sent from your Lordeschippe to me. For I have a great dele of gudd plate wiche I wold fayn be dischargyd of. Thus I besech your Lordeschipp to take my powr meanyng in gudd partt intending to my litill powr truly to serve the Kings Grace, and so I dowbt nott butt his Majesty will accept my doings when his Grace knowith what beggarly and crafty merchants I have to be occupied with all. And most humble I do thank your gudd Lordeschippe for your gudnes and gudd mediation vnto hys most noble Grace for me, and shalbe during my liff your assured seruant and orator vnto Almyztie Godd long to preserue your guud Lordeschipp with increse of moch honor. At Northampton, XXIX. Octobris.

Your most bovyndon orator and seruant,

JOHN LONDON.

(*Original Letters*, ed.cit., vol. III, p. 130.)

117. A Summons to the Pilgrimage of Grace

Original Letters

The popular discontent which followed the dissolution of the smaller monasteries resulted in two insurrections; the first was in Lincolnshire, the second, in Yorkshire. The latter was a most formidable movement, and was directed by Robert Aske, who gave to the uprising the name of the Pilgrimage of Grace. He issued several addresses, the selection given being his appeal to the common people.

Masters, all men to be redie to morrow, and this neighte and in the mornynge to ryng your bellis in every towne, and to assemble your selfs apon Skypwithe mowre, and thare apoynte your Captayns, Master Hussye, Master Babthorp, and Master Gascoygn, and other gentilmen; and to geff warnynge to all be yonde the watter to be redy vpon payn of dethe for the Comen Welthe; and make your proclymacōn, every man to be trewe to the Kings issue, and the noble blode; to preserve the Church of God from spolyng; and to be trew to the Comens and the welthis; and ye shall have to morrowe the Articles and causis of your assemble and peticōn to the Kyng, and the place of oure meting, and all other of poure and commen welthe. In haste, etc.

By me Robt. Aske, Chieffe Captayn of
M'ches land, Thile, and Howden
shyre, Thomas Metham, Robt. Aske
Yonger, Thomas Salte-Marche,
Wyll~m. Monketon, M. Ffranke,
Master Cawood, Captayns of the
same.

(*Original Letters illustrative of English History*, ed. H. Ellis.
Lond., 1846, III, p. 53.)

118. The Lancaster Herald's Mission to the Insurgents

Original Letters

The Pilgrimage of Grace was of such formidable character that great exertions were made to rapidly suppress it. These efforts were successful when force of numbers overawed the insurgents whose ranks were thinned by discontent and distress bred by the diplomacy, or treachery, of the Duke of Norfolk, the commander of the forces of the king. The leaders of this rebellion, Aske, and the Lords Darcy and Hussey were pardoned, but another rebellion having broken out in Lancaster convenient pretext was taken for connecting them with it, and they suffered the death penalty. The Lancaster Herald, whose account of a mission to the insurgents on the Pilgrimage we give, was also executed, — not for participation in the rebellion, but for kneeling to its leaders while he was on the king's mission.

The manner, fashion, and ordering of me Lancaster Herald at Arms to our Sovereign Lord the King, sent from Scroby the 21st day of October, by the right honourable Lord the Earl of Shrewsbury, Lord Steward of the King's most honourable household, and Lieutenant General from the Trent northward, and the right honourable Earls of Rutland and Huntingdon of the King's most honourable Counsell, to Pomfret, with a Proclamation to be read amongst the traitorous and rebellious persons assembled at Pomfret contrary to King's laws. And when I did approach near the town of Pomfret, I overtook certain companies of the said rebellious, being common people of the husbandry, which saluted me gently, and gave great honour to the King's coat of arms which I ware. And I demanded of them why they were in harness, and assembled of such sort; and they answered me that it was for the Commonwealth; and said if they did not so, the Commonalty and the Church should be destroyed. And I demanded of them how. And they said that no man should bury, nor christen, nor wedd, nor have their beast unmarked, but that the King would have a certain sum of money for every such thing, and the beast unmarked to his own house, which had never been seen. And I answered them and told them how good and gracious Lord the King had been to them, and how long he had kept them in great wealth, tranquillity and peace; and also that his Grace, nor none of his Counsel, never intended nor thought no such things and articles as they found them grieved with. And with such persuasions as I found and said to them, riding into the Town, I had gat grant of three or four hundred of the Commonalty to go gladly home to their houses, and to ask the King's mercy; and said, they were weary of that life they were in. And resorted first to the Market Cross, where I should have made the proclamation. And Robert Aske, captain of the host, being in the Castle, heard tell that I was comen, and sent for me to come to him; and so I did; and as I entered into the first ward, there I found many in harness, of very cruel fellows, and a porter with a white staff in his hand; and at the two other ward-gates every of them a porter with his staff, accompanied with harnessed men; and so I was brought into the Hall, which I found full of people. And I was commanded to tarry to such time as the said traitorous captain's pleasure was known; and in that space I stood up at the high table in the Hall, and there shewed to the people the cause of my coming, and the effect of the

Proclamation; and in doing the same, the said Aske sent for me in to his chamber; and there keeping his port and countenance as though he had been a great Prince, with great rigour and like a tyrant; who was accompanied with the Archbishop of York, the Lord Darcy, Sir Robert Constable, Mr. Magnus, Sir Christopher Danby, and divers other. And, as my dutie was, I saluted the Archbishop of York and my Lord Darcy, showing to them the cause I came thither for. And then the said Robert Aske, with a cruell and inestimable proud countenance, stretched himself, and took the hearing of my tale, which I opened to him at large, in as much honour to our Sovereign Lord the King as my reason would serve me; which the said Captain Aske gave no reverence to, and superstitiously demanded the sight of my Proclamation. And then I took it out of my purse and delivered it to him, and then he read it openly, without any reverence to any person; and said, it should not need to call no counsell for the answer of the same, for he would of his own wit give me the answer, which was this. He, standing in the highest place of the chamber, taking the high estate upon him, said, "Herald, as a messenger you are welcome to me and all my company, intending as I do. And as for the Proclamation sent from the Lords, from whence you come, shall not be read at the Market Cross, nor in no place amongst my people, which be all under my guiding; nor for fear of loss of lands, life, and goods, not for the power which is against us, doth not enter into our hearts with fear, but are all of one accord with the points of our articles, clearly intending to see a reformation, or else to die in those causes." And then I demanded of him what his article was. And he said, one was that he and his company would go to London of pilgrimage to the King's Highness, and there to have all vile blood of his Counsell put from him, and all noble blood set up again, and also the Faith of Christ and his laws to be kept, and full restitution of Christ's Church of all wrongs done unto it, and also the Commonalty to be used as they should be: and bade me trust to this, for it should be done, or he would die for it. And then I required him, that he would give me this in writing, for my capacity would not serve to bear it away; and he said, "With a good will"; and called for his oath which he gave to his people, and said th'articles was comprehended within the said oath, and delivered it in writing to me, and caused me to read it myself; and he sayd, to that he would sett to his hand, and die

in the quarrel, and his people with him. And then I prayed him to put his hand to the said bill, and so he did, and with a proud voice said, "This is mine act, whosoever say the contrary." And also he said, he meant no harm to the King's person, but to see reformation. And I fell down on my knee before him, showing him how I was a messenger, and charged by the King's Counsell to read the Proclamation which I brought, for my discharge; and he clearly answered me, that of my life I should not; for he would have nothing put into his people's head that should sound contrary to his intent; and said at all times I should have his safe conduct, to come and go in message, wearing the King's coat of arms, or else not: and also said, if my Lord of Shrewsbury, or any other of the Lords of the King's army, would come and speak with him, they should have of him their safe conducts, to come safe and go safe; and also said, "Herald, recommend me to the Lords from whence you come, and say to them it were mete that they were with me, for it is for all their wealths that I do." And then he commanded the Lord Darcy to give me two crowns of five shillings to reward, whether I wold or no; and then took me by the arm, and brought me forth of the Castle, and there made a proclamation that I should go safe and come safe, wearing the King's coat, in payne of death; and so took his leave of me, and returned into the Castle in high honour of the people, as a traitor may. And I missed my horse, and I called to him again, for to have my horse, and then he made a proclamation that who so held my horse, and brought him not again immediately, bad kill him without mercy. And then both my horse was delivered to me, and then he commanded that twenty or forty men should bring me out of the Town where I should see the least of his people, nor that I should not speak with them. For surely I think, if I might have redd the Proclamacion and good words unto the people, that all the plough-commonalty would have gone home to their houses immediately, for they say they be weary of that life they lead, and if they say to the contrary to the captain's will, he shall die immediately. And this all to be true, I, the said Lancaster, hath written this with my hand and true report as mine Oath is."

"Lancaster Herrald."

(*Original Letters*, ed. cit., III, 54.)

119. The Six Articles

(31 HENRY VIII, c. 14, 1539)

Statutes of the Realm

No single document so well illustrates the attitude of Henry VIII. to the Catholic Church as does the "Act Abolishing Diversity in Opinions." In this enactment we find no departure from the tenets of the ancient faith. In its preservation of the fundamental doctrines of the Catholic Communion, we find proof that the Church of Henry VIII. was not Protestant, as to any doctrine except that of papal supremacy. Yet in breaking away from the Catholic Church, and in repudiating the supremacy of the pope, Henry gave a fresh impetus to the Protestant movement, which had been for centuries accumulating force.

AN ACT ABOLISHING DIVERSITY IN OPINIONS

Whereas the King's most excellent Majesty is by God's law supreme head immediately under Him of this whole Church and Congregation of England, intending the conservation of the same Church and Congregation in a true, sincere, and uniform doctrine of Christ's Religion, calling also to His blessed and most gracious remembrance as well the great and quiet assurance, prosperous increase, and other innumerable commodities which have ever ensued, come, and followed of concord, agreement, and unity in opinions, as also the manifold perils, dangers, and inconveniences, which have heretofore in many places and regions grown, sprung, and arisen of the diversities of minds and opinions, especially of matters of Christian Religion; and therefore desiring that such an unity might and should be charitably established in all things touching and concerning the same, as the same so being established might chiefly be to the honor of Almighty God, the very Author and Fountain of all true unity and sincere concord, and consequently redound to the common-wealth of this his highness' most noble realm, and of all his loving subjects and other residents and inhabitants of or in the same; hath therefore caused and commanded this his most high Court of Parliament, for sundry and many urgent causes and considerations, to be at this time summoned, and also a synod and convocation of all the archbishops, bishops, and other learned men of the clergy of this his realm, to be in like manner assembled; and forasmuch as in the said Parliament, synod, and convocation there were certain articles, matters, and questions appointed and set forth touching Christian Religion, that is to say; First, whether in the most blessed Sacrament of the Altar re-

maineth after the consecration the substance of bread and [wine] or no; Secondly, whether it be necessary by God's law that all men should be communicate with both kinds or no; Thirdly, whether priests, that is to say men dedicated to God by priesthood, may by the law of God marry after or no; Fourthly, whether vow of chastity or widowhood made to God advisedly by man or woman be by the law of God to be observed or no; Fifthly, whether private Masses stand with the law of God and be to be used and continued in the Church and Congregation of England as things whereby good Christian people may and do receive both godly consolation and wholesome benefits or no; Sixthly, whether auricular confession is necessary to be retained, continued, used, and frequented in the Church or no; the King's most Royal Majesty, most prudently pondering and considering that by occasion of variable and sundry opinions and judgments of the said Articles, great discord and variance hath arisen as well amongst the clergy of this his realm, as amongst a great number of vulgar people, his loving subjects of the same, and being in a full hope and trust that a full and perfect resolution of the said Articles should make a perfect concord and unity generally amongst all his loving and obedient subjects; of his most excellent goodness not only commanded that the said Articles should deliberately and advisedly by his said archbishops, bishops, and other learned men of his clergy, be debated, argued, and reasoned, and their opinions therein to be understood, declared, and known, but also most graciously vouchsafed in his own princely person to descend and come into his said high court of Parliament and Council, and there, like a prince of most high prudence and no less learning, opened and declared many things of high learning and great knowledge touching the said articles, matters, and questions, for an unity to be had in the same; Whereupon, after a great and long deliberate and advised disputation and consultation had and made concerning the said Articles, as well by the consent of the King's Highness as by the assent of the Lords Spiritual and Temporal, and other learned men of his clergy in their convocation, and by the consent of the Commons in this present Parliament assembled, it was, and is, finally resolved, accorded, and agreed in manner and form following, that is to say; First, that in the most blessed Sacrament of the Altar, by the strength and efficacy of Christ's mighty word, it being spoken by the priest, is present really, under the

form of bread and wine, the natural body and blood of our Saviour Jesus Christ, conceived of the Virgin Mary, and that after the consecration there remaineth no substance of bread or wine, nor any other substance but the substance of Christ, God and Man; Secondly, that communion in both kinds is not necessary *ad salutem* by the law of God to all persons; and that it is to be believed and not doubted of, but that in the flesh under form of bread is the very blood, and with the blood under form of wine is the very flesh, as well apart as though they were both together; Thirdly, that priests after the order of priesthood received, as before, may not marry by the law of God; Fourthly, that vows of chastity or widowhood by man or woman made to God advisedly ought to be observed by the law of God, and that it exempts them from other liberties of Christian people, which, without that, they might enjoy; Fifthly, that it is meet and necessary that private Masses be continued and admitted in this the King's English Church and Congregation, as whereby good Christian people ordering themselves accordingly do receive both godly and goodly consolations and benefits, and it is agreeable also to God's law; Sixthly, that auricular confession is expedient and necessary to be retained and continued, used and frequented, in the Church of God;...

(Ed. from *Statutes of the Realm*, ed. cit., III, 739.)

120. The Bible in the English Churches

(33 HENRY VIII, 1542)

Records, Burnet

The close of the reign of Henry VIII. was marked by a decided movement toward Protestantism. The influence of Cranmer and Cromwell was thrown against the fundamental doctrines of the Catholic Church. The changed attitude of the Crown is shown in the statute enforcing the keeping of a public Bible in the English churches, and in the proclamation ordering prayers to be read in the English tongue. These two statutes indicated the approaching era of ultra-Protestantism brought about by the advisers of Edward VI.

PROCLAMATION ORDAINED BY THE KING'S MAJESTY, WITH THE ADVICE OF HIS HONOURABLE COUNCIL, FOR THE BIBLE OF THE LARGEST AND GREATEST VOLUME TO BE HAD IN EVERY CHURCH; DEvised THE SIXTH DAY OF MAY, THE THIRTY-THIRD YEAR OF THE KING'S MOST GRACIOUS REIGN.

WHEREBY injunctions heretofore set forth by the authority of the king's royal majesty, supreme head of the

church of this his realm of England, it was ordained and commanded, amongst other things, that in all and singular parish churches, there should be provided, by a certain day now expired, at the costs of the curates and parishioners, Bibles containing the Old and New Testament in the English tongue, to be fixed and set up openly in every of the said parish churches; the which godly commandment and injunction was to the only intent that every of the king's majesty's loving subjects, minding to read therein, might, by occasion thereof, not only consider and perceive the great and ineffable omnipotent power, promise, justice, mercy and goodness of Almighty God, but also to learn thereby to observe God's commandments, and to obey their sovereign lord and high powers, and to exercise godly charity, and to use themselves according to their vocations, in a pure and sincere Christian life without murmur or grudging: by the which injunctions, the king's royal majesty intended that his loving subjects should have and use the commodities of the reading of the said Bibles, for the purpose above rehearsed, humbly, meekly, reverently, and obediently, and not that any of them should read the said Bibles with high and loud voices, in time of the celebration of the holy mass, and other divine services used in the church; or that any of his lay-subjects, reading the same, should presume to take upon them any common disputation, argument, or exposition of the mysteries therein contained; but that every such layman should, humbly, meekly, and reverently, read the same for his own instruction, edification, and amendment of his life, according to God's holy word therein mentioned. And notwithstanding the king's said most godly and gracious commandment and injunction, in form as aforesaid, his royal majesty is informed, that divers and many towns and parishes within this his realm have neglected their duties in the accomplishment thereof; whereof his highness marvelleth not a little; and minding the execution of his said former most godly and gracious injunctions, doth straitly charge and command, that the curates and parishioners of every town and parish within this his realm of England, not having already Bibles provided within their parish churches, shall, on this side the feast of All Saints next coming, buy and provide Bibles of the largest and greatest volume, and cause the same to be set and fixed in every of the said parish churches, there to be used as is aforesaid, according to the said former injunctions, upon pain that the curate and inhabitants of the

parishes and towns shall lose and forfeit to the king's majesty for every month that they shall lack and want the said Bibles, after the same feast of All Saints, 40s., the one half of the same forfeit to be to the king's majesty, and the other half to him or them which shall first find and present the same to the king's majesty's council... And his highness straitly chargeth and commandeth that all and singular ordinaries, having ecclesiastical jurisdiction within this his church and realm of England, and dominion of Wales, that they and every of them shall put their effectual endeavours that the curates and parishioners shall obey and accomplish this his majesty's proclamation and commandment, as they tender the advancement of the king's most gracious and godly purpose in that behalf and as they will answer to his highness for the same.

God save the king.

(*Collection of Records*, Burnet, ed. cit., cvii.)

121. Church Services to be in English

(36 HENRY VIII, 1545)

Records, Burnet

This mandate produced a complete overturn of the old custom of using Latin in the services of the Church; and since its issue the services of the Church of England have been held in the English tongue.

A MANDATE FOR PUBLISHING AND USING THE PRAYERS IN THE ENGLISH TONGUE.

Mandatum Domino Episcopo London. direct. pro publicatione Regiarum Injunctionum.

Most reverend father in God, right trusty and right well-beloved, we greet you well, and let you wit, that calling to our remembrance the miserable state of all Christendom, being at this present, besides all other troubles, so plagued with most cruel wars, hatred, and dissensions, as no place of the same almost (being the whole reduced to a very narrow corner) remaineth in good peace, agreement, and concord; the help and remedy whereof far exceeding the power of any man, must be called for of Him who only is able to grant our petitions, and never forsaketh nor repelleth any that firmly believe and faithfully call on him; unto whom also the example of Scripture encourageth us, in all these and other our troubles and necessities, to fly and to cry for aid

and succour; being therefore resolved to have continually from henceforth general processions, in all cities, towns, churches, and parishes in this our realm, said and sung, with such reverence and devotion as appertaineth. Forasmuch as heretofore the people, partly for lack of good instruction and calling, and partly for that they understood no part of such prayers or suffrages as were used to be sung and said, have used to come very slackly to the procession, when the same have been commanded heretofore; we have set forth certain godly prayers and suffrages in our native English tongue, which we send you herewith, signifying unto you, that for the special trust and confidence we have of your godly mind, and earnest desire, to the setting forward of the glory of God, and the true worshipping of his most holy name, within that province committed by us unto you, we have sent unto you these suffrages, not to be for a month or two observed, and after slenderly considered, as other our injunctions have, to our no little marvel, been used; but to the intent that as well the same, as other our injunctions, may be earnestly set forth by preaching good exhortations and otherwise to the people, in such sort as they feeling the godly taste thereof, may godly and joyously, with thanks, receive, embrace, and frequent the same, as appertaineth. Wherefore we will and command you, as you will answer unto us for the contrary, not only to cause these prayers and suffrages aforesaid to be published, frequented, and openly used in all towns, churches, villages, and parishes of your own diocess, but also to signify this our pleasure unto all other bishops of your province, willing and commanding them in our name, and by virtue hereof, to do and execute the same accordingly. Unto whose proceedings, in the execution of this our commandment, we will that you have a special respect, and make report unto us, if any shall not with good dexterity accomplish the same; not failing, as our special trust is in you.

At St. James's, Junii — Regni 36. Directed to the Archbishop of Canterbury.

(*Collection of Records*, Burnet, ed. cit., cxiii.)

CHAPTER XVI

THE REIGN OF EDWARD VI.

122. Regulations concerning the Sacrament of the Lord's Supper

(1 EDW. VI, 1547)

Statutes at Large of England

The following Act strikingly illustrates one of the results of the sudden overthrow of Catholicism. The sacrament, which had once been to all the most sacred of ceremonies, became a subject of blasphemy on both sides. So widespread was this evil that it was necessary to take legal measures to suppress it, lest religion should be utterly subverted by being brought into almost universal disrepute.

AN ACT AGAINST SUCH PERSONS AS SHALL UNREVERENTLY
SPEAK AGAINST THE SACRAMENT OF THE BODY AND BLOOD
OF CHRIST, COMMONLY CALLED THE SACRAMENT OF THE
ALTAR, AND FOR THE RECEIVING THEREOF IN BOTH KINDS.

I. (PREAMBLE. This describes the nature and sanctity of the Sacrament, recites the abuses thereof, and provides against irreverent speaking thereof.)

II. (Provides for the methods of examination of Accusers.)

III. (Provides for process under this Act.)

IV. (Provision that justices of the peace, before whom trial is held, shall summons bishop of diocese to trial.)

V. (Provides that indictment must be laid within three months after committal of offense.)

VI. (Method of proof of innocence.)

VII. And forasmuch as it is more agreeable, both to the first institution of the said Sacrament of the most precious body and blood of our Saviour Jesus Christ, and also more conformable to the common use and practice both of the Apostles and the primitive Church by the space of 500 years and more after Christ's ascension, that the said blessed Sacrament should be administered to all Christian people under both the kinds of bread and wine, than under the

form of bread only: And also it is more agreeable to the first institution of Christ, and to the usage of the Apostles and the primitive Church, that the people being present should receive the same with the priest than that the priest should receive it alone: Therefore be it enacted by our said sovereign lord the King, with the consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That the said most blessed Sacrament be hereafter commonly delivered and administered unto the people within the Church of England and Ireland, and other the King's dominions, under both the kinds, that is to say, of bread and wine, except necessity otherwise require: And also the priest which shall administer the same shall, at the least one day before, exhort all persons which shall be present likewise to resort and prepare themselves to receive the same. And when the day prefixed cometh, after a godly exhortation by the minister made (wherein shall be further expressed the benefit and comfort promised to them which worthily receive the said Holy Sacrament, and danger and indignation of God threatened to them which shall presume to receive the same unworthily, to the end that every man may try and examine his own conscience before he shall receive the same), the said minister shall not without a lawful cause deny the same to any person that will devoutly and humbly desire it; any law, statute, ordinance, or custom contrary thereto in any wise notwithstanding: Not condemning hereby the usage of any church out of the King's Majesty's dominions.

(Ed. from *Statutes at Large*, ed. cit., III, 478.)

123. The Act of Uniformity

(2 EDW. VI, 1548)

Statutes at Large of England

Confusion in order and lack of reverence in religious services followed the innovations of Henry VIII. As Protestantism gained control, the disorder increased. The inevitable end was clearly foreseen by the advisers of Edward VI., and prompt action was taken by the following Act, which was designed to cause all the various forms of divine service to conform to one model, that of the Protestant Church of England.

AN ACT FOR THE UNIFORMITY OF SERVICE AND ADMINISTRATION OF THE SACRAMENTS THROUGHOUT THE REALM

(The preamble recites the uses of various forms of service; the attempt of the King and Lord Protector to prevent

innovations; the clemency of the King in not punishing offenders against his decrees; the appointment of the Archbishop of Canterbury and others to frame a common order of prayer and rites; the framing of the Book of Common Prayer; and the thanks of Parliament for the latter. It also asks amnesty for all offenders in the premises, and proceeds:)

... and that all and singular ministers in any cathedral or parish church or other place within this realm of England, Wales, Calais, and the marches of the same, or other the King's dominions, shall, from and after the feast of Pentecost next coming, be bounden to say and use the matins, evensong, celebration of the Lord's Supper, commonly called the Mass, and administration of each of the Sacraments, and all their common and open prayer, in such order and form as is mentioned in the same book, and none other or otherwise. And albeit that the same be so godly and good that they give occasion to every honest and conformable man most willingly to embrace them, yet lest any obstinate person who willingly would disturb so godly order and quiet in this realm should not go unpunished, that it may also be ordained and enacted by the authority aforesaid, That if any manner of parson, vicar, or other whatsoever ministers, that ought or should sing or say Common Prayer mentioned in the said Book, or administer the Sacraments, shall after the said feast of Pentecost next coming refuse to use the said Common Prayers, or to administer the Sacraments in such cathedral or parish church, or other places as he should use or administer the same, in such order and form as they be mentioned and set forth in the said Book; or shall use, wilfully and obstinately standing in the same, any other rite, ceremony, order, form, or manner of Mass openly or privily, or matins, evensong, administration of the Sacraments, or other open prayer than is mentioned and set forth in the said Book (open prayer, in and throughout this Act, is meant that prayer which is for other to come unto and hear, either in common churches or private chapels or oratories, commonly called the Service of the Church): or shall preach, declare, or speak any thing in the derogation or depraving of the said Book, or any thing therein contained, or of any part thereof; and shall be thereof lawfully convicted according to the laws of this realm, by verdict of twelve men, or by his own confession, or by the notorious evidence of the fact, shall lose and forfeit to the King's Highness, his heirs

and successors, for his first offence, the profits of such one of his spiritual benefices or promotions as it shall please the King's Highness to assign or appoint, coming and arising in one whole year next after his conviction. [The rest of this section deals with form of penalty for first, second, and third offences.]

II. And it is ordained and enacted by the authority abovesaid, That if any person or persons whatsoever, after the said feast of Pentecost next coming, shall in any interludes, plays, songs, rhymes, or by other open words, declare or speak any thing in the derogation, depraving, or despising of the same Book, or of any thing therein contained, or any part thereof: or shall by open fact, deed, or by open threatnings, compel or cause, or otherwise procure or maintain any parson, vicar, or other minister in any cathedral or parish church, or in any chapel or other place, to sing or say any common and open prayer, or to administer any Sacrament otherwise or in any other manner or form than is mentioned in the said Book; or that by any of the said means shall unlawfully interrupt or let any parson, vicar, or other ministers in any cathedral or parish church, chapel, or any other place, to sing or say common and open prayer, or to administer the Sacraments, or any of them, in any such manner and form as is mentioned in the said Book; that then every person being thereof lawfully convicted in form abovesaid, shall forfeit to the King our sovereign lord, his heirs and successors, for the first offence ten pounds. [The rest of this section deals with forms of penalties.]

III. (Provides that justices of oyer may sit in judgment.)

IV. (Provides that a bishop may at his pleasure join with the justices at the trial.)

V. Provided always, That it shall be lawful to any man that understandeth the Greek, Latin, and Hebrew tongue, or other strange tongue, to say and have the said prayers heretofore specified of matins and evensong in Latin, or any such other tongue, saying the same privately, as they do understand.

VI. And for the further encouragement of learning in the tongues in the Universities of Cambridge and Oxford to use and exercise in their common and open prayer in their chapels (being no parish churches), or other places of prayer, the matins, evensong, litany, and all other prayers (the Holy Communion, commonly called the Mass, excepted), prescribed in the said Book, in Greek, Latin, or

Hebrew; any thing in this present Act to the contrary notwithstanding.

VII. Provided also, That it shall be lawful for all men, as well in churches, chapels, oratories, or other places, to use openly any psalms or prayer taken out of the Bible, at any due time, not letting or omitting thereby the Service, or any part thereof, mentioned in the said Book.

VIII. (Provides that Service Books shall be gotten by all churches before the next feast of Pentecost.)

IX, X, XI, XII, and XIII provide for procedure and jurisdiction under this Act.

(Ed. from *Statutes at Large*, ed. cit., III, p. 517.)

124. Against Books and Images

(3 EDW. VI, 1549)

Statutes at Large of England

The zeal of the Protestant party led to the issue of stringent acts against all practices that recalled the doctrines of the Catholic Church. Uniformity of worship was secured by careful suppression and drastic legislation.

Whereas the King's most excellent Majesty hath of late set forth and established by authority of Parliament an uniform, quiet, and godly order for Common and Open Prayer, in a book entitled, *The Book of Common Prayer and Administration of the Sacraments, and other Rites and Ceremonies of the Church, after the Church of England*, to be used and observed in the said Church of England, agreeably to the order of the primitive Church, much more comfortable unto his loving subjects than other diversity of service, as heretofore of long time hath been used, being in the said book ordained, nothing to be read but the very pure Word of God, or which is evidently grounded upon the same; and in the other, things corrupt, untrue, vain, and superstitious, and as it were a preparation to superstition; which for that they be not called in, but permitted to remain undefaced, do not only give occasion to such perverse persons as do impugn the order and godly meaning of the King's said Book of Common Prayer, to continue in their old accustomed superstitious service, but also minister great occasion to diversity of opinions, rites, ceremonies, and services: Be it therefore enacted by the King our Sovereign Lord, the Lords Spiritual and Temporal, and the Commons, in the present Parliament assembled, That all books called antiphoners, missals, grailes, processionals, manuals, legends,

pies, portuasses, primers in Latin or English, couchers, journals, ordinals, or other books or writings whatsoever heretofore used for service of the Church, written or printed in the English or Latin tongue, other than such as are or shall be set forth by the King's Majesty, shall be by authority of this present Act clearly and utterly abolished, extinguished, and forbidden for ever to be used or kept in this realm, or elsewhere within any of the King's dominions.

II. And be it further enacted by the authority aforesaid, That if any person or persons, of what estate, degree, or condition soever he, she, or they be, body politic or corporate, that now have or hereafter shall have in his, her, or their custody, any the books or writings of the sorts aforesaid, or any images of stone, timber, alabaster, or earth, graven, carved, or painted, which heretofore have been taken out of any church or chapel, or yet stand in any church or chapel, and do not before the last day of June next ensuing deface and destroy, or cause to be defaced and destroyed, the same images and every of them, and deliver or cause to be delivered all and every the same books to the mayor, bailiff, constable, or church-wardens of the town where such books then shall be, to be by them delivered over openly within three months next following after the said delivery, to the archbishop, bishop, chancellor, or commissary, of the same diocese, to the intent the said archbishop, bishop, chancellor, or commissary, and every of them, cause them immediately either to be openly burnt or otherwise defaced and destroyed: shall for every such book or books willingly retained in his, her, or their hands or custody within this realm, or elsewhere within any of the King's dominions, and not delivered as is aforesaid, after the said last day of June, and be thereof lawfully convict, forfeit and lose to the King our Sovereign Lord, for the first offence xx s., and for the second offence shall forfeit and lose (being thereof lawfully convict) iv *l*., and for the third offence shall suffer imprisonment at the King's will.

III. (Provides penalty in case of default of duty by any Mayor, etc.)

IV. (Provides for jurisdiction by Justices of the Assize.)

V. Provided also, and be it enacted by the authority aforesaid, That any person or persons may use, keep, have, and retain any primers in the English or Latin tongue, set forth by the late King of famous memory, King Henry the Eighth, so that the sentences of invocation or prayer to the saints in

the same primers be blotted or clearly put out of the same; any thing in this Act to the contrary notwithstanding.

VI. Provided always, That this Act, or any thing therein contained, shall not extend to any image or picture set or graven upon any tomb in any church, chapel, or churchyard, only for a monument of any king, prince, nobleman, or other dead person, which hath not been commonly reputed or taken for a saint, but that such pictures and images my stand and continue in like manner and form as if this Act had never been had nor made; any thing in this Act to the contrary in any wise notwithstanding.

(Ed. from *Statutes at Large*, ed. cited, III, p. 565.)

125. Journal of Edward VI.

Records, Burnet

The following extracts from the journal of Edward VI., a mere boy, are pathetic in their evidence of abnormal precocity. They are also important in that they foreshadow the attitude of Mary toward the Protestant religion.

March [1550]

18. The lady Mary, my sister, came to me at Westminster, where, after salutations, she was called with my council, into a chamber; where was declared how long I had suffered her mass, in hope of her reconciliation, and how now being no hope, which I perceived by her letters, except I saw some short amendment, I could not bear it. She answered, "that her soul was God's, and her faith she would not change, nor dissemble her opinion with contrary doings." It was said, "I constrained not her faith, but willed her not as a king to rule, but as a subject to obey; and that her example might breed too much inconvenience."

19. The emperor's ambassador came with a short message from his master of war, if I would not suffer his cousin, the princess, to use her mass. To this was no answer given at this time.

20. The bishops of Canterbury, London, Rochester, did consider to give license to sin, was sin; to suffer and wink at it for a time might be born, so all haste possible might be used.

23. The council having the bishop's answers, seeing my subjects taking their vent in Flanders, might put the whole realm in danger. The Flemings had cloth enough for a year in their hand, and were kept far under the danger of the papists;

the fifteen hundred cinquetales of powder I had in Flanders, the harness they had for preparation of the gendarmory, the goods my merchants had there at the Woolfleet, decreed to send an ambassador to the emperor, Mr. Wotton, to deny the matter wholly, and persuade the emperor in it, thinking, by his going, to win some time for a preparation of a mart, convenience of powder, harness, etc., and for the surety of the realm. In the mean season, to punish the offenders, first of my servants that heard mass, next of hers.

24. Sir Anthony Brown sent to the Fleet for hearing mass with serjeant Morgan, sir Clement Smith, which a year before heard mass, chidden.

25. The ambassador of the emperor came to have his answer, but had none, saving, that one should go to the emperor within a month or two to declare the matter.

(*Collection of Records*, Burnet, ed. cit., clxvi.

CHAPTER XVII

THE REACTION AGAINST PROTESTANTISM

126. Lady Jane Grey's Claim to the Throne

Records, Burnet

The claim of Lady Jane Dudley — or, as she is better known, of Lady Jane Grey — to the throne of England is set forth in the following document. The text has been given in full, as it throws light upon a little-understood period, and gives the complete ground of claim of the unfortunate lady whose reign was the briefest of England's queens.

Jane, by the grace of God qucen of England, France, and Ireland, defender of the faith, and of the Church of England, and also of Ireland, under Christ on earth the supreme head. To all our most loving, faithful, and obedient subjects, and to every of them, greeting. Whereas our most dear cousin Edward the 6th, late king of England, France, and Ireland, Defender of the Faith; and on earth supreme head, under Christ, of the Church of England and Ireland; by his letters patents, signed with his own hand, and sealed with his great seal of England, bearing date the 21st day of June, in the seventh year of his reign; in the presence of the most part of his nobles, his counsellors, judges, and divers other grave and sage personages, for the profit and surety of his whole realm, thereto assenting and subscribing their names to the same, hath, by the same his letters patent, recited, that forasmuch as the imperial crown of this realm, by an act made in the 35th year of the reign of the late king, of worthy memory, king Henry the 8th, our progenitor, and great uncle, was, for lack of issue by his body lawfully begotten; and for lack of issue of the body of our said late cousin king Edward the 6th, by the same act, limited and appointed to remain to the lady Mary his eldest daughter, and to the heirs of her body lawfully begotten: and for default of such issue, the remainder thereof to the lady Elizabeth, by the name of the

lady Elizabeth his second daughter, and to the heirs of her body lawfully begotten; with such conditions as should be limited and appointed by the said late king of worthy memory, king Henry the 8th, our progenitor, and great uncle, by his letters patent under his great seal, or by his last will in writing, signed with his hand. And forasmuch as the said limitation of the imperial crown of his realm being limited, as is aforesaid, to the said lady Mary, and lady Elizabeth, being illegitimate, and not lawfully begotten, for that the marriage had, between the said late king, king Henry the 8th, our progenitor, and great uncle, and the lady Katherine, mother of the said lady Mary; and also the marriage had between the said late king, king Henry the 8th, our progenitor, and great uncle, and the lady Ann, mother of the said lady Elizabeth, were clearly and lawfully undone, by sentences of divorce, according to the word of God, and the ecclesiastical laws; and which said several divorcements have been severally ratified and confirmed by authority of Parliament, and especially in the 28th year of the reign of king Henry the 8th, our said progenitor, and great uncle, remaining in force, strength, and effect, whereby, as well the said lady Mary, as also the said lady Elizabeth, to all intents and purposes, are, and been clearly disabled, to ask, claim, or challenge the said imperial crown, or any other of the honours, castles, manours, lordships, lands, tenements, or other hereditaments, as heir or heirs to our said late cousin king Edward the 6th, or as heir or heirs to any other person or persons whatsoever, as well for the cause before rehearsed, as also for that the said lady Mary, and lady Elizabeth, were unto our said late cousin but of the half-blood, and therefore by the ancient laws, statutes, and customs of this realm, be not inheritable unto our said late cousin, although they had been born in lawful matrimony; as indeed they were not, as by the said sentences of divorce, and the said statute of the 28th year of the reign of king Henry the 8th, our said progenitor, and great uncle, plainly appeareth. And forasmuch also, as it is to be thought, or at the least much to be doubted, that if the said lady Mary, or lady Elizabeth, should hereafter have or enjoy the said imperial crown of this realm, and should then happen to marry with any stranger born out of this realm, that then the said stranger, having the government and the imperial crown in his hands, would adhere and practice not only to bring this noble, free realm into the tyranny and servitude of the

bishops of Rome, but also to have the laws and customs of his or their own native country or countries, to be practised and put in use within this realm, rather than the laws, statutes, and customs here of long time used; whereupon the title of inheritance, of all and singular the subjects of this realm to depend, to the peril of conscience, and the utter subversion of the common-weal of this realm: whereupon our said late dear cousin, weighing and considering within himself which ways and means were most convenient to be had for the stay of the said succession, in the said imperial crown, if it should please God to call our said late cousin out of this transitory life, having no issue of his body; and calling to his remembrance, that we, and the lady Katherine, and the lady Mary, our sisters (being the daughters of the lady Frances, our natural mother, and then, and yet, wife of our natural and most loving father, Henry duke of Suffolk; and the lady Margaret, daughter of the lady Elianor, then deceased, sister of the said lady Frances, and the late wife of our cousin Henry earl of Cumberland) were very nigh of his grace's blood, of the part of his father's side, our said progenitor, and great uncle; and being naturally born here, within the realm; and for the very good opinion our said late cousin had of our said sisters' and cousin Margaret's good education, did therefore, upon good deliberation and advice herein had, and taken, by his said letters patents, declare, order, assign, limit, and appoint, that if it should fortune himself, our said late cousin, king Edward the Sixth, to decease, having no issue of his body lawfully, begotten, that then the said imperial crown of England and Ireland, and the confines of the same, and his title to the crown of the realm of France; and all and singular honours, castles, prerogatives, privileges, preeminencies and authorities, jurisdictions, dominions, possessions, and hereditaments, to our said late cousin, king Edward the Sixth, or to the said imperial crown belonging, or in any-wise appertaining, should, for lack of such issue of his body, remain, come, and be to the eldest son of the body of the said lady Frances, lawfully begotten, being born into the world in his life-time, and to the heirs males of the body of such eldest son lawfully begotten; and so from son to son, as he should be of vicinity of birth of the body of the said lady Francis, lawfully begotten, being born into the world in our said late cousin's life-time, and to the heirs male of the body of every such son lawfully begotten. And for default of such son born into the world

in his life-time, of the body of the said lady Frances, lawfully begotten; and for lack of heirs males of every such son lawfully begotten, that then the said imperial crown, and all and singular other the premises, should remain, come, and be to us, by the name of the lady Jane, eldest daughter of the said lady Frances, and to the heirs male of our body lawfully begotten, and for the lack of such issue, then to the lady Katherine aforesaid, our said second sister, and the heirs male of her body lawfully begotten, with divers other remainders, as by the same letters-patents more plainly and at large it may and doth appear. Sithence the making of our letters patents, that is to say, on Thursday, which was the 6th day of this instant month of July, it hath pleased God to call unto his infinite mercy our said most dear and entirely beloved cousin Edward the Sixth, whose soul God pardon; and forasmuch as he is now deceased, having no heirs of his body begotten; and that also there remaineth at this present time no heirs lawfully begotten, of the body of our said progenitor, and great uncle, king Henry the Eighth; and forasmuch also as the said lady Frances, our said mother, had no issue male begotten of her body, and born into the world, in the life-time of our said cousin king Edward the Sixth, so as the said imperial crown, and other the premises to the same belonging, or in any-wise appertaining, now be, and remain to us, in our actual and royal possession, by authority of the said letters patents: we do therefore by these presents signify, unto all our most loving, faithful, and obedient subjects, that like-as we for our part shall, by God's grace, shew ourselves a most gracious and benign sovereign queen and lady to all our good subjects, in all their just and lawful suits and causes; and to the uttermost of our power, shall preserve and maintain God's most holy word, Christian policy, and the good laws, customs, and liberties of these our realms and dominions; so we mistrust not but they, and every of them, will again, for their parts, at all times, and in all cases, shew themselves unto us, their natural liege queen and lady, most faithful, loving, and obedient subjects, according to their bounden duties and allegiance, whereby they shall please God, and do the things that shall tend to their own preservation and sureties; willing and commanding all men, of all estates, degrees, and conditions, to see our peace and accord kept, and to be obedient to our laws, as they tender our favour, and will answer for the contrary at their extreme perils. In witness whereof, we have caused these our letters

to be made patents. Witness ourself, at our Tower of London, the tenth day of July, in the first year of our reign.

God save the Queen.

(*Collection of Records*, Burnet, ed. cit., ccliii.)

127. Execution of Lady Jane Grey

Foxe

The brief reign of Lady Jane Grey Dudley was brought to a pathetic close with her condemnation to death. Her bearing on the scaffold was marked by resignation and dignity, and the sympathies of all, even those who were opposed to her claim as queen, were given to the young girl who died so bravely.

These are the words that the lady Jane spake upon the scaffold, at the hour of her death. First, when she mounted upon the scaffold, she said to the people standing thereabout, "Good people, I am come hither to die, and by a law I am condemned to the same. The fact against the queen's highness was unlawful, and the consenting thereunto by me: but touching the procurement and desire thereof by me, or on my behalf, I do wash my hands thereof in innocency before God, and the face of you, good Christian people, this day:" and therewith she wrung her hands, wherein she had her book. Then said she, "I pray you all, good Christian people, to bear me witness that I die a true Christian woman, and that I do look to be saved by no other mean, but only by the mercy of God, in the blood of his only son Jesus Christ: and I confess, that when I did know the word of God, I neglected the same, loved myself and the world; and therefore this plague and punishment is happily and worthily happened unto me for my sins; and yet I thank God, that of his goodness he hath thus given me a time and respite to repent. And now, good people, while I am alive, I pray you assist me with your prayers." And then, kneeling down, she turned her to Fecknam, saying: "Shall I say this psalm?" And he said, "Yea." Then said she the psalm of "*Miserere mei Deus*" in English, in most devout manner, throughout to the end; and then she stood up, and gave her maiden, mistress Ellen, her gloves and handkerchief, and her book to master Bruges. And then she untied her gown, and the hangman pressed upon her to help her off with it; but she, desiring him to let her alone, turned towards her two gentlewomen, who helped her off therewith, and also with her frowes paste and neckerchief, giving to her a fair handkerchief to knit about her eyes.

Then the hangman kneeled down and asked her forgive-

ness, whom she forgave most willingly. Then he willed her to stand upon the straw; which doing, she saw the block. Then she said, "I pray you despatch me quickly." Then she kneeled down, saying, "Will you take it off, before I lay me down?" And the hangman said, "No, madam." Then tied she the handkerchief about her eyes, and feeling for the block, she said, "What shall I do? Where is it? Where is it?" One of the standers-by guiding her thereunto she laid her head down upon the block, and then stretched forth her body, and said, "Lord, into thy hands I commend my spirit;" and so finished her life, in the year of our Lord God 1554, the 12th day of February.

(*Acts and Monuments, of John Foxe*, ed. J. Pratt, Lond. n. d. 4th ed., VI, 423.)

128. Mary's Claim to the Throne

Acts and Monuments, Foxe

That the claim of Lady Jane Grey was not without strong support is shown by the following correspondence between Mary and the lords of the council. The answer of the prominent lords to the claim of Mary is very sharp in its tone, and some of the Protestants afterward paid dearly for their partisanship of Lady Jane and for their strictures upon the legitimacy of Mary.

My lords, we greet you well, and have received sure advertisement, that our dearest brother the king, our late sovereign lord, is departed to God's mercy; which news how woful they be unto our heart, he only knoweth, to whose will and pleasure we must, and do, humbly submit us and our wills. But in this so lamentable a case, that is to wit now, after his majesty's departure and death, concerning the crown and governance of this realm of England, with the title of France, and all things thereto belonging, what hath been provided by act of Parliament, and the testament and last will of our dearest father, besides other circumstances advancing our right, you know, the realm and the whole world knoweth; the rolls and records appear by the authority of the king our said father, and the king our said brother, and the subjects of this realm; so that we verily trust that there is no good true subject, that is, can, or would pretend to be ignorant thereof; and of our part we have of ourselves caused, and, as God shall aid and strengthen us, shall cause, our right and title in this behalf to be published and proclaimed accordingly. And albeit this so weighty matter seemeth strange, that our said brother, dying upon Thursday at night last past, we hitherto had no knowledge from you

thereof, yet we consider your wisdoms and prudence to be such, that having eftsoons among you debated, pondered, and well weighed this present case with our estate, with your own estate, the commonwealth, and all our honours, we shall and may conceive great hope and trust, with much assurance in your loyalty and service; and therefore for the time interpret and take things not to the worst, and that ye will, like noblemen, work the best. Nevertheless, we are not ignorant of your consultations, to undo the provisions made for our preferment, nor of the great bands, and provisions forcible, wherewith ye be assembled and prepared — by whom, and to what end, God and you know, and nature cannot but fear some evil. But be it that some consideration politic, or whatsoever thing else hath moved you thereto; yet doubt you not, my lords, but we can take all these your doings in gracious part, being also right ready to remit and fully pardon the same, and that freely, to eschew bloodshed and vengeance, against all those that can or will intend the same; trusting also assuredly you will take and accept this grace and virtue in good part, as appertaineth, and that we shall not be enforced to use the service of others our true subjects and friends, which in this our just and right cause, God, in whom our whole affiance is, shall send us. Wherefore, my lords, we require you, and charge you and every of you, that of your allegiance which you owe to God and us, and to none other, for our honour and the surety of our person, only employ yourselves, and forthwith, upon receipt hereof, cause our right and title to the crown and government of this realm to be proclaimed in our city of London and other places, as to your wisdom shall seem good, and as to this case appertaineth; not failing hereof as our very trust is in you. And this our letter, signed with our hand, shall be your sufficient warrant in this behalf.

Given under our signet, at our Manor of Kenning-hall, the ninth of July, 1553.

(Acts and Monuments, of John Foxe, ed. cit., VI, 385.)

128a. Answer of the Lords of the Council unto the Lady Mary's Letter

Madam, we have received your letters, the ninth of this instant, declaring your supposed title, which you judge yourself to have, to the imperial crown of this realm, and all the dominions thereunto belonging. For answer whereof, this is to advertise you, that forasmuch as our sovereign lady

queen Jane is, after the death of our sovereign lord Edward the Sixth, a prince of most noble memory, invested and possessed with the just and right title in the imperial crown of this realm, not only by good order of old ancient laws of this realm, but also by our late sovereign lord's letters patent, signed with his own hand, and sealed with the great seal of England in presence of the most part of the nobles, counsellors, judges, with divers other grave and sage personages, assenting and subscribing to the same: we must, therefore, as of most bounden duty and allegiance, assent unto her said grace, and to none other, except we should (which faithful subjects cannot) fall into grievous and unspeakable enormities. Wherefore we can no less do, but, for the quiet both of the realm and you also, to advertise you, that forasmuch as the divorce made between the king of famous memory, king Henry the Eighth, and the lady Katherine your mother, was necessary to be had both by the everlasting laws of God, and also by the ecclesiastical laws, and by the most part of the noble and learned universities of Christendom, and confirmed also by the sundry acts of parliaments remaining yet in their force, and thereby you justly made illegitimate and unhereditary to the crown imperial of this realm, and the rules, and dominions, and possessions of the same, you will, upon just consideration hereof, and of divers other causes lawful to be alleged for the same, and for the just inheritance of the right line and godly order taken by the late king our sovereign lord king Edward the Sixth, and agreed upon by the nobles and greatest personages aforesaid, surcease by any pretence to vex and molest any of our sovereign lady queen Jane's subjects from their true faith and allegiance due unto her grace: assuring you, that if you will for respect show yourself quiet and obedient (as you ought), you shall find us all and several ready to do you any service that we with duty may, and be glad, with your quietness, to preserve the common state of this realm, wherein you may be otherwise grievous unto us, to yourself, and to them. And thus we bid you most heartily well to fare. From the Tower of London, in this ninth of July, 1553.

Your Ladyship's friends, showing yourself an obedient subject.

Thomas Canterbury. Shrewsbury. John Gates.
The Marquis of Winchester, Pembroke. W. Peter.

John Bedford.
 William Northampton.
 Thomas Ely, chancellor.
 Northumberland.
 Henry Suffolk.
 Henry Arundel.

Cobham. W. Cecil.
 R. Riche. John Cheke.
 Huntingdon. John Mason.
 Darcy. Edward North.
 Cheney. R. Bowes.
 R. Cotton.

(*Acts and Monuments*, Foxe, ed. cit., VI, 386.)

129. Mary's Status as Queen

(1 MARY, S. 3, 1553)

Statutes at Large of England

The question of the status of a queen regnant had never been legally fixed. Custom had given to the queen consort many rights, privileges, and powers, but it had not found occasion to fix the amount of power vested in that unknown quantity in England, a reigning queen. The question was raised as to whether a woman could rule England. The Salic Law appeared to forbid, and favourable precedent was lacking. It was therefore necessary to define and confirm the status of the queen by an Act of Parliament.

AN ACT DECLARING THAT THE REGAL POWER OF THIS REALM IS
 IN THE QUEEN'S MAJESTY, AS FULLY AND ABSOLUTELY AS
 EVER IT WAS IN ANY OF HER MOST NOBLE PROGENITORS,
 KINGS OF THIS REALM.

FORASMUCH as the imperial crown of this realm, with all dignities, honours, prerogatives, authorities, jurisdictions and preeminences thereunto annexed, united and belonging, by the divine providence of Almighty God, is most lawfully, justly and rightfully descended and come unto the Queen's Highness that now is, being the very, true and undoubted heir and inheritrix thereof, and invested in her most royal person, according unto the laws of this realm: And by force and virtue of the same, all regal power, dignity, honour, authority, prerogative, preeminence and jurisdictions doth appertain, and of right ought to appertain and belong unto her Highness, as unto the sovereign supreme governor and queen of this realm, and of the dominions thereof, is as full, large and ample manner, as it hath done heretofore to any other her most noble progenitors, kings of this realm: Nevertheless, the most ancient statutes of this realm, being made by kings then reigning, do not only attribute and refer all prerogative, preeminence, power and jurisdiction royal unto the name of king, but also do give, assign and appoint the correction and punish-

ment of all offenders against the regality and dignity of the crown, and the laws of this realm, unto the king: By occasion whereof, the malicious and ignorant persons may be hereafter induced and persuaded unto this error and folly, to think that her Highness could nor should have, enjoy and use such like royal authority, power, preeminence, prerogative and jurisdiction, nor do nor execute and use all things concerning the said statutes, and take the benefit and privilege of the same, nor correct and punish offenders against her most royal person and the regality and dignity of the crown of this realm and the dominions thereof, as the kings of this realm, her most noble progenitors, have heretofore done, enjoyed, used and exercised.

II. For the avoiding and clear extinguishment of which said error or doubt, and for a plain declaration of the laws of this realm in that behalf.

III. Be it declared and enacted by the authority of this present Parliament, That the law of this realm is, and ever hath been, and ought to be understood, that the kingly or regal office of his realm, and all dignities, prerogatives royal, power, preeminences, privileges, authorities and jurisdictions thereunto annexed, united or belonging, being invested either in male or female, are and be, and ought to be, as fully, wholly, absolutely and entirely deemed, judged, accepted, invested and taken in the one as in the other; so that what or whensoever statute or law doth limit and appoint that the king of this realm may or shall have, execute and do any thing as king, or doth give any profit or commodity to the king, or doth limit or appoint any pains or punishment for the corrections of offenders or transgressors against the regality and dignity of the king or of the crown; the same, the Queen (being supreme governess, possessor and inheritrix to the imperial crown of this realm, as our said sovereign lady the Queen most justly presently is) may by the same authority and power likewise have, exercise, execute, punish, correct and do, to all intents, constructions and purposes, without doubt, ambiguity, scruple or question; any custom, use or scruple, or any other thing whatsoever to be made to the contrary notwithstanding.

(Ed. from *Statutes at Large*, ed. cit., IV, 17.)

130. Mary Attempts to restore Church Lands

(1554)

Somers' Tracts

The fidelity of Queen Mary to the Catholic Church was displayed in many ways. Her attitude toward heretics has been shown, and the following Act indicates another phase in her desire to restore to the Church the lands taken from it during the previous reigns. The attempt was only partially successful, as vested private interests were too strong to be abrogated, especially as their possessors formed the legislature through which Mary sought to effect the restitution.

A SPEECH OF QUEEN MARY'S TO HER COUNCIL, UPON HER RESOLUTION OF RESTORING CHURCH LANDS. ANNO REG. MAR. 4.

We have willed you to be called to us, to the intent you might hear of me, my conscience, and the resolution of my mind, concerning the lands and possessions, as well of monasteries, as other churches whatsoever, being now in my possession.

First, I do consider, that the said lands were taken away from the churches aforesaid in time of schism; and that by unlawful means, such as are contrary both to the law of God, and of the church: for which cause my conscience doth not suffer me to detain them. And therefore I here expressly refuse, either to claim, or retain those lands for mine: but with all my heart, freely and willingly, without all paction or condition, here, and before God, I do surrender and relinquish the said lands and possessions, or inheritances whatsoever; and renounce the same with this mind and purpose, that order and disposition thereof may be taken, as shall seem best liking to the Pope, or his legate, to the honour of God, and the wealth of this our realm. And albeit you may object to me again, That the state of my kingdom, the dignity thereof, and my crown imperial, cannot be honourably maintained and furnished without the possessions aforesaid: yet notwithstanding (and so she had affirmed before, when she was bent upon the restitution of the tenths and first fruits), I set more by the salvation of my soul, than by ten such kingdoms: and therefore the said possessions I utterly refuse here to hold, after that sort and title: and I give most hearty thanks to God, who hath given me a husband of the same mind, who hath no less good affection in his behalf, than I myself. Wherefore I charge and command that my chancellor, (with whom I have conferred my mind in this mat-

ter,) and you four, to resort to-morrow together, to the legate, signifying to him the premises in my name. And give your attendance upon me, for the more full declaration of the state of my kingdom, and of the aforesaid possessions, according as you yourselves do understand the matter, and can inform him in the same.

(*Collection of Tracts*, Somers', ed. by Walter Scott, Lond., 1809. I, 56.)

131. Mary's Orders for the Execution of John Hooper

(1555)

Historical Documents, Goldsmid

Mary's extreme anxiety for the stamping out of heresy may be seen in her instructions as to the execution of Hooper. He was not to be allowed to speak lest he should further spread his pernicious doctrines. The original manuscript is subscribed "A True Copy of an Old Paper in my Custody, which seems to be the first Draught of a Letter from the Queen to the lord Chandois, etc., who went to see Execution done on Bishop Hooper."

Right Trusty and Well-beloved, etc. Whereas John Hooper, who of late was called Bushop of Worcester and Gloucester, is, by due order of the laws Ecclesiastique, condemned and judged for a moste obstinate, false, detestable Heretique, and committed to our Secular Power, to be burned according to the holsome and good Lawes of our Realme in that Case provided. Forasmuche as in those Cityes, and the Diocesse thereof, he hath in Tymes paste preached and taught most pestilent Heresyes and Doctryne to our Subjects there: We have therefore geven Order, that the said Hooper, who yet persisteth obstinate, and hath refused Mercy when it was graciously offred, shall be put to Execution in the sayd Cytie of Gloucester, for the Example and Terror of suche as he hath there seduced and mistaught, and bycause he hath doone moste Harme there. And woll that you, calling unto you some of Reputation dwelling in the Shire, such as ye thinke best, shall repayre unto our said Cytie, and be at the said Execution, assisting our Mayor and Shrieves of the same Cytie, in this Behalf. And forasmuche also as the said Hooper is, as Heretiques be, a vain-glorious Person, and delyteth in his Tongue, and having Liberty, may use his sayd Tongue to perswade such as he hath seduced, to persist in the myserable Opinion that he hath sown among them: Our Pleasure is therefore, and we require you to take Order, that the said Hooper be neither, at the Tyme of his Execution, nor in goyng to the Place thereof, suffred to speak at large; but thither to be ledde quietly, and in Sylence, for

eschuyng of further Infection, and such Inconvenyence, as may otherwise ensue in this Parte. Whereof fayle not, as ye tender our Pleasure...

A True Copy of an Old Paper in my Custody, which seems to be the first Draught of a Letter from the Queen to the Lord Chandois, etc., who went to see Execution done on Bishop Hooper.

THOM. TANNER.

(Collection of *Historical Documents Illustrative of the Reigns of the Tudor and Stuart Sovereigns*. Ed. by E. Goldsmid, Edinburg, 1886. II, 16.)

132. The Burning of Ridley and Latimer

Foxe

The *History of the Acts and Monuments of the Church* has had, under the name of the *Book of Martyrs*, a wide circulation among Protestants. The writer, JOHN FOXE (1517-1587) was a man of great discernment and unquestioned integrity, and his work is a leading source for the Reformation period. The execution of bishops Ridley and Latimer has been selected as typical of such scenes. In a later page is given (No. 141), as contrast, an execution of a Catholic during the reign of Elizabeth.

THE BEHAVIOUR OF DR. RIDLEY AND MASTER LATIMER, AT THE TIME OF THEIR DEATH, WHICH WAS THE 16TH OF OCTOBER, 1555.

Upon the north-side of the town, in the ditch over against Balliol-college, the place of execution was appointed: and for fear of any tumult that might arise, to let the burning of them, the lord Williams was commanded, by the queen's letters, and the householders of the city, to be there assistant, sufficiently appointed. And when every thing was in readiness, the prisoners were brought forth by the mayor and the bailiffs.

Master Ridley had a fair black gown furred, and faced with foins, such as he was wont to wear being bishop, and a tippet of velvet furred likewise about his neck, a velvet night-cap upon his head, and a corner cap upon the same, going in a pair of slippers to the stake, and going between the mayor and an alderman, etc.

After him came master Latimer in a poor Bristol frieze frock all worn, with his buttoned cap, and a kerchief on his head, all ready to the fire, a new long shroud hanging over his hose, down to the feet: which at the first sight stirred

men's hearts to rue upon them, beholding on the one side, the honour they sometime had, and on the other, the calamity whereunto they were fallen.

Master doctor Ridley, as he passed toward Bocardo, looked up where master Cranmer did lie, hoping belike to have seen him at the glass-window, and to have spoken unto him. But then master Cranmer was busy with friar Soto and his fellows, disputing together, so that he could not see him, through that occasion. Then master Ridley, looking back, espied master Latimer coming after, unto whom he said, "Oh, be ye there?" "Yea," said Master Latimer, "have after as fast as I can follow." So he, following a pretty way off, at length they came both to the stake, the one after the other, where first Dr. Ridley entering the place, marvellous earnestly holding up both his hands, looked towards heaven. Then shortly after espying master Latimer, with a wonderous cheerful look he ran to him, embraced, and kissed him; and, as they that stood near reported, comforted him, saying, "Be of good heart, brother, for God will either assuage the fury of the flame, or else strengthen us to abide it."

With that went he to the stake, kneeled down by it, kissed it, and most effectuously prayed, and behind him master Latimer kneeled, as earnestly calling upon God as he. After they arose, the one talked with the other a little while, till they which were appointed to see the execution, removed themselves out of the sun. What they said I can learn of no man....

Incontinently they were commanded to make them ready, which they with all meekness obeyed. Master Ridley took his gown and his tippet, and gave it to his brother-in-law master Shipside, who all his time of imprisonment, although he might not be suffered to come to him, lay there at his own charges to provide him necessities, which from time to time he sent him by the serjeant that kept him. Some other of his apparel that was little worth, he gave away; other the bailiffs took.

He gave away besides, divers other small things to gentlemen standing by, and divers of them pitifully weeping, as to sir Henry Lea he gave a new groat; and to divers of my lord William's gentlemen some napkins, some nutmegs, and rases of ginger; his dial, and such other things as he had about him, to every one that stood next him. Some plucked the points off his hose. Happy was he that might get any rag of him.

Master Latimer gave nothing, but very quietly suffered his keeper to pull off his hose, and his other array, which to look unto was very simple: and being stripped into his shroud, he seemed as comely a person to them that were there present, as one should lightly see; and whereas in his clothes he appeared a withered and crooked silly old man, he now stood bolt upright, as comely a father as one might lightly behold.

Then master Ridley, standing as yet in his truss, said to his brother, "It were best for me to go in my truss still." "No," quoth his brother, "it will put you to more pain: and the truss will do a poor man good." Whereunto master Ridley said, "Be it, in the name of God;" and so unlaced himself. Then, being in his shirt, he stood upon the foresaid stone, and held up his hand and said, "O heavenly Father, I give unto thee most hearty thanks, for that thou hast called me to be a professor of thee, even unto death. I beseech thee, Lord God, take mercy upon this realm of England, and deliver the same from all her enemies."

Then the smith took a chain of iron, and brought the same about both Dr. Ridley's, and master Latimer's middles: and, as he was knocking in a staple, Dr. Ridley took the chain in his hand, and shook the same, for it did gird in his belly, and looking aside to the smith said, "Good fellow, knock it in hard, for the flesh will have his course." Then his brother did bring him gunpowder in a bag, and would have tied the same about his neck. Master Ridley asked, what it was. His brother said, "Gunpowder." "Then," said he, "I take it to be sent of God: therefore I will receive it as sent of him. And have you any," said he, "for my brother;" meaning master Latimer. "Yea sir, that I have," quoth his brother. "Then give it unto him," said he, "betime; lest ye come too late." So his brother went, and carried of the same gunpowder unto master Latimer.

In the mean time Dr. Ridley spake unto my lord Williams, and said, "My lord, I must be a suitor unto your lordship in the behalf of divers poor men, and especially in the cause of my poor sister: I have made a supplication to the queen's majesty in their behalves. I beseech your lordship for Christ's sake, to be a mean to her grace for them. My brother here hath the supplication, and will resort to your lordship to certify you thereof. There is nothing in all the world that troubleth my conscience, I praise God, this only excepted. Whilst I was in the see of London, divers poor men took

leases of me, and agreed with me for the same. Now I hear say the bishop that now occupieth the same room, will not allow my grants unto them made, but, contrary unto all law and conscience, hath taken from them their livings, and will not suffer them to enjoy the same. I beseech you, my lord, be a mean for them: you shall do a good deed, and God will reward you."

Then they brought a faggot, kindled with fire, and laid the same down at Dr. Ridley's feet. To whom master Latimer spake in this manner: "Be of good comfort, master Ridley, and play the man. We shall this day light such a candle, by God's grace, in England, as I trust shall never be put out."

And so the fire being given unto them, when Dr. Ridley saw the fire flame up towards him, he cried with a wonderful loud voice, "*In manus tuas, Domine, commendo spiritum meum: Domine recipe spiritum meum.*" And after, repeated this latter part often in English, "Lord, Lord, receive my spirit;" master Latimer crying as vehemently on the other side, "O Father of heaven, receive my soul!" who received the flame as it were embracing of it. After that he had stroked his face with his hands, and as it were bathed them a little in the fire, he soon died (as it appeareth) with very little pain or none. And thus much concerning the end of this old and blessed servant of God, master Latimer, for whose laborious travails, fruitful life, and constant death, the whole realm hath cause to give great thanks to Almighty God.

But master Ridley, by reason of the evil making of the fire unto him, because the wooden faggots were laid about the gorse, and overhigh built, the fire burned first beneath, being kept down by the wood; which when he felt, he desired them for Christ's sake to let the fire come unto him. Which when his brother-in-law heard, but not well understood, intending to rid him out of his pain (for the which cause he gave attendance), as one of such sorrow not well advised what he did, heaped faggots upon him, so that he clean covered him, which made the fire more vehement beneath, that it burned clean all his nether parts, before it once touched the upper; and that made him leap up and down under the faggots, and often desire them to let the fire come unto him, saying, "I cannot burn." Which indeed appeared well; for, after his legs were consumed by reason of his struggling through the pain (whereof he had no release, but only his contentation in God), he showed that side toward us clean, shirt and all un-

touched with flame. Yet in all this torment he forgot not to call unto God still, having in his mouth, "Lord have mercy upon me," intermingling his cry, "Let the fire come unto me, I cannot burn." In which pangs he laboured till one of the standers by with his bill pulled off the faggots above, and where he saw the fire flame up, he wrested himself unto that side. And when the flame touched the gunpowder, he was seen to stir no more, but burned on the other side, falling down at master Latimer's feet; which, some said, happened by reason that the chain loosed; others said, that he fell over the chain by reason of the poise of his body, and the weakness of the nether limbs.

(*Acts and Monuments*, Foxe, ed. cit., VII, 547.)

CHAPTER XVIII

ELIZABETH

133. Classes of the People in the XVIth Century

Smith

Sir THOMAS SMITH (1512-1577), in his capacity of Secretary of State under Elizabeth, enjoyed peculiar opportunities of observation, which his wide learning and philosophical inclination enabled him to use to great result. His description of the classes of the people is accurate and comprehensive. It is taken from the best known of his works, the posthumous volume entitled *De Republica Anglorum* — a work which passed through many editions and is one of the classics of English Constitutional History.

Of the first part of Gentlemen of England, called *nobilitas major*.

... In England no man is created a baron, except he may dispend of yearly revenue one thousand pounds, or one thousand marks at the least ...

Of the second sort of Gentlemen, which may be called *nobilitas minor*, and first of knights.

No man is a knight by succession, not the king or prince...: knights therefore be not born but made... In England whosoever may dispend of his free lands forty pounds sterling of yearly revenue . . . may be by the king compelled to take that order and honour, or to pay a fine ...

Of Esquires.

Esquires (which we commonly call squires) be all those which bear arms (as we call them) or armories... these be taken for no distinct order of the commonwealth, but do go with the residue of the gentlemen ...

Of Gentlemen.

Gentlemen be those whom their blood and race doth make noble and known . . . Ordinarily the king doth only make knights and create barons or higher degrees, for as for gentlemen they be made good cheap in England. For who-soever studieth the laws of the realm, who studieth in the Universities, who professeth liberal sciences, and to be short, who can live idly and without manual labour, and will bear the port, charge and countenance of a gentleman, he shall be called master, . . . and be taken for a gentleman . . .

Of Yeomen.

Those whom we call yeomen, next unto the nobility, knights and squires, have the greatest charge and doings in the commonwealth . . . I call him a yeoman whom our laws do call *legalem hominem* . . . which is a freeman born English, and may dispend of his own free land in yearly revenue to the sum of 40s. sterling . . . This sort of people confess themselves to be no gentlemen . . . and yet they have a certain preeminence and more estimation than labourers and artificers, and commonly live wealthily . . . These be (for the most part) farmers unto gentlemen, . . . and by these means do come to such wealth, that they are able and daily do buy the lands of unthrifty gentlemen, and after setting their sons to the school at the Universities, to the laws of the realm, or otherwise leaving them sufficient lands whereon they may live without labour, do make their said sons by those means gentlemen . . .

Of the fourth sort of men which do not rule.

The fourth sort or class amongst us, is of those which the old Romans called *capite censi* . . . day labourers, poor husbandmen, yea merchants or retailers which have no free land, copyholders and all artificers . . . These have no voice nor authority in our commonwealth, and no account is made of them, but only to be ruled.

(*Manner of Government or Policies of the Realme of England*, ed. 1589.
Bk. I, c. 17-24.)

Of Bondage and Bondmen.

After that we have spoken of all the sorts of freemen, according to the diversity of their estates and persons, it

resteth to say somewhat of bondmen... The Romans had two kinds of bondmen, the one which were called *servi*... all those kind of bondmen be called in our law villains in gross... Another they had... which they called *adscriptitii glebæ*... and in our law are called villains regardant... Of the first I never knew any in the realm in my time; of the second, so few there be, that it is not almost worth the speaking, but our law doth acknowledge them in both those sorts.

(*The Commonwealth of England*, ed. 1589, Bk. III, c. 10.)

RELIGIOUS SECTS IN THE TIME OF ELIZABETH

The four great religious parties of the age of Elizabeth were the Anglican, the Catholic, the Presbyterian, and the Puritan. The attitude of the Catholic Church needs no illustration. The positions of the other sects are well illustrated by the excerpts which follow. For exposition of the Anglican stand we have selected extracts from the *Laws of Ecclesiastical Polity*, by RICHARD HOOKER (1553-1600). No man stands as prominently as the exponent of the doctrines of the Church of England as does this divine. RICHARD BANCROFT (1544-1610), Archbishop of Canterbury, was the bitter and uncompromising opponent of the Puritans, a staunch and even violent supporter of the royal power and episcopal system; but his sympathies and teachings were those which led to Presbyterianism in its modern form. The Convocation of 1563 tersely and yet comprehensively formulated the Puritan demands; and the articles drawn up in 1583 by JOHN WHITGIFT (1530 or 1533-1604), Archbishop of Canterbury, mark the latest stage of ecclesiastical development in the Elizabethan period.

134. The Anglican Standpoint

Hooker

(a) The plain intent of the Book of Ecclesiastical Discipline is to shew that men may not devise laws of church government, but are bound for ever to use and to execute only those which God himself hath already devised and delivered in the scripture. The self-same drift the Admonitioners also had, in urging that nothing ought to be done in the Church according unto any law of man's devising, but all according to that which God in his word hath commanded... Demand of them, wherefore they conform not themselves unto the order of our Church, and in every particular their answer for the most part is, 'We find no such thing commanded in the world.'

(b) Touching points of doctrine, as for example the Unity of God, ... they have been since the first hour that there was a Church in the world, and till the last they must be believed.

But as for matters of regiment, they are for the most part of another nature. To make new articles of faith and doctrine no man thinketh it lawful; new laws of government what commonwealth or church is there which maketh not either at one time or another? . . . There is no reason in the world wherefore we should esteem it as necessary always to do, as always to believe the same things; seeing every man knoweth that the matter of faith is constant, the matter contrariwise of action daily changeable, especially the matter of action belonging unto church polity.

(c) Let not any man imagine, that the bare and naked difference of a few ceremonies could either have kindled so much fire, or have caused it to flame so long; but that the parties which herein laboured mightily for change and (as they say) for reformation, had somewhat more than this mark only whereat to aim. Having therefore drawn out a complete form, as they supposed, of public service to be done to God, and set down their plot for the office of the ministry in that behalf, they very well knew how little their labours so far forth bestowed would avail them in the end, without a claim of jurisdiction to uphold the fabric which they had erected; and this neither likely to be obtained but by the strong hand of the people, nor the people unlikely to favour it; the more if overture were made of their own interest, right and title thereunto.

(d) This we boldly set down as a most infallible truth, that the Church of Christ is at this day lawfully, and so hath been since the first beginning, governed by bishops, having permanent superiority and ruling power over other ministers of the word and sacraments . . . Let us not fear to be herein bold and peremptory, that, if anything in the Church's government, surely the first institution of bishops was from heaven, was even of God: the Holy Ghost was the author of it.

(e) The drift of all that hath been alleged to prove perpetual separation and independency between the Church and the Commonwealth is, that this being held necessary, it might consequently be thought, that in a Christian kingdom, he whose power is greatest over the Commonwealth may not lawfully have supremacy of power also over the Church . . . Whereupon it is grown a question whether power ecclesiastical over the Church, power of dominion in such degree as the laws of this land do grant unto the sovereign governor thereof, may by the said supreme Head and Governor law-

fully be enjoyed and held? ... Unto which supreme power in kings two kinds of adversaries there are that have opposed themselves; one sort defending 'that supreme power in causes ecclesiastical throughout the world appertaineth of divine right to the bishop of Rome,' another sort 'that the said power belongeth in every national Church unto the clergy thereof assembled.' We defend as well against the one as the other, 'that king's within their own precincts may have it.'

(*Laws of Ecclesiastical Polity*, R. Hooker, ed. Keble, Lond., 1834.)

135. The Presbyterian Position

Bancroft

For the first ten or eleven years of her Majesty's reign, through the ... outcries and exclamations of those that came home from Geneva, against the garments prescribed to ministers and other such like matters, no man of any experience is ignorant what great contention and strife was raised ...

About the twelfth year of her Highness' government, these malcontents ... began to stir up new quarrels, concerning the Geneva discipline ... Hereupon (the 14 of her Majesty) two Admonitions were framed, and exhibited to the High Court of Parliament. The first contained their pretended griefs, with a declaration, forsooth, of the only way to reform them, viz. by admitting of that platform which was there described. This Admonition finding small entertainment, (the authors or chief preferers thereof being imprisoned), out cometh the Second Admonition, towards the end of the same parliament ... In this Second Admonition, the first is wholly justified, ... and in plain terms it is there affirmed that, if they of that assembly would not then follow the advice of the First Admonition, they would surely themselves be their own carvers ... Whereupon, presently after the said parliament (viz. the 20th of November, 1572), there was a presbytery erected at Wandsworth in Surrey.

... Hitherto it should seem that in all their former proceedings they had relied chiefly upon the First Admonition and Cartwright's book ... But now, at the length (about the year 1583), the form of discipline, which is lately come to light, was compiled: and thereupon an assembly or council being held (as I think at London, or at Cambridge), certain decrees were made concerning the establishing and the practice thereof ...

... About which time also [viz. 1587] ... the further practice of the discipline ... began to spread itself more freely; ... but especially ... it was most friendly entertained among the ministers of Northamptonshire, as it appeareth in record by some of their own depositions, 16th of May, 1590, in these words following. About two years and a half since, the whole shire was divided into three Classes. I. The Classis of Northamptonshire ... II. The Classis of Daventry side ... III. The Classis of Kettering side ... This device (saith Master Johnson) is commonly received in most parts of England, ... but especially in Warwickshire, Suffolk, Norfolk, Essex, etc.

The next year after, viz. 1588, the said Warwickshire classes, etc. assembling themselves together in council (as it seemeth, at Coventry), ... there was ... a great approbation obtained of the aforesaid Book of Discipline ... This book, having thus at the last received this great allowance more authentically, was carried far and near, for a general ratification of all the brethren ...

... Mutual conference is to be practised in the Church by common assemblies ... Such as are to meet in the assemblies, let them be chosen by the suffrages of those churches or assemblies that have interest or to do in it, and out of these let such only be chosen as have exercised the public office in that church either of a minister or of an elder ...

It shall be lawful for other elders and ministers, yea, and for deacons and students in divinity, by the appointment of the assembly ... to be both present, and to be asked their judgments ... Yet let none be counted to have a voice, but those only that were chosen by the Church ...

It is expedient that in every ecclesiastical assembly there be a president, which may govern the assembly, and that he be from time to time changed ... The assemblies according to their several kinds, if they be greater are of more, if they be less, they are of less authority. Therefore it is lawful to appeal from a less assembly to a greater ...

Assemblies are either Classes or Synods.

Classes are conferences of the fewest ministers of churches, standing near together, as for example of twelve. The chosen men of all the several churches of that assembly are to meet in conference: that is to say, for every church a minister and an elder: and they shall meet every fortnight. They shall chiefly endeavour the oversight and censure of that Classis ...

A Synod is an assembly of chosen men from more churches than those that be in one Classis or conference.

In these, the articles of the holy discipline and synodical must always be read; also in them . . . censures or inquisition made upon all that be present . . .

Of Synods there be two sorts: the first is particular, and this containeth under it, both Provincial and National Synods.

A Provincial Synod is an assembly of those which be delegated from all the Classes or Conferences of that province. Let every province contain in it 24 Classes . . . Let every Classis send unto the Provincial Synod two ministers and as many elders. It shall be called every half year, or more often, until the discipline be confirmed . . .

Let the acts of all the Provincial Synods be sent unto the National . . .

The National is a Synod consisting of the delegates from all the Synods Provincial that are within the dominion of one commonwealth . . .

For the National Synod, three ministers and three elders must be chosen out of every Synod Provincial.

In it the common affairs of all the churches of the whole nation and kingdom are to be handled: as of doctrine, discipline and ceremonies, causes not decided in inferior assemblies, appellations and such like . . .

. . . Now follows the universal or Oecumenical Synod of the whole world. And this is the Synod that consisteth and is gathered together of the chosen men out of every particular national Synod.

(*Dangerous Positions and Proceedings*, Richard Bancroft, Lond., 1593.)

136. Whitgift's Articles touching Preachers and other Orders for the Church

I. That the laws late made against the recusants be put in more due execution, considering the benefits that have grown to the Church thereby, where they have been so executed, and the encouragement which they and others do receive by remiss executing thereof.

II. That all preaching, reading, catechising and other such like exercises in private places and families whereunto others do resort, being not of the same family, be utterly extinguished . . .

III. That none be permitted to preach, read or catechise in the church or elsewhere unless he do four times in the

year at least say service and minister the sacraments according to the Book of Common Prayer.

IV. That all preachers and others in ecclesiastical orders do at all times wear and use such kind of apparel as is prescribed unto them by the book of Advertisements and her Majesty's Injunctions *anno primo*.

V. That none be permitted to preach or interpret the Scriptures unless he be a priest or deacon at the least, admitted thereunto according to the laws of this realm.

VI. That none be permitted to preach, read, catechise, minister the sacraments or to execute any other ecclesiastical function... unless he first consent and subscribe to these articles following... viz.:

(a) That her Majesty, under God, hath and ought to have the sovereignty and rule over all manner of persons born within her realms, dominions and countries, of what estate ecclesiastical or temporal soever they be; and that no foreign power, prelate, state or potentate hath or ought to have any jurisdiction... authority ecclesiastical or temporal within her Majesty's said realms, dominions and countries.

(b) That the Book of Common Prayer and of ordering bishops, priests and deacons containeth nothing in it contrary to the word of God, and that the same may be lawfully used, and that he himself will use the form of the said book prescribed in public prayer and administration of the sacraments, and none other.

(c) That he alloweth the book of Articles of Religion, agreed upon by the archbishops and bishops in both provinces and the whole clergy in the Convocation holden at London in the year of our Lord 1562 and set forth by her Majesty's authority, and that he believeth all the articles therein contained to be agreeable to the word of God...

Jo. Cant.	Jo. London.	Jo. Sarum.
Ed. Petriburgh.	Tho. Lincoln.	Edm. Norwich.
Jo. Roffen.	Tho. Exon.	Marmad. Meneven.

(*Life and Acts of John Whitgift*, John Strype, Oxford, 1822, I, pp. 22-23.)

137. Puritan Demands in Convocation of 1563

I. That all the Sundays in the year, and principal feasts of Christ, be kept holydays; and all other holydays to be abrogated.

II. That in all parish churches the minister in common prayer turn his face towards the people; and there distinctly

read the divine service appointed, where all the people assembled may hear and be edified.

III. That in ministering the sacrament of baptism, the ceremony of making the cross in the child's forehead may be omitted, as tending to superstition.

IV. That forasmuch as divers communicants are not able to kneel during the time of the communion, for age, sickness, and sundry other infirmities; and some also superstitiously both kneel and knock; that order of kneeling may be left to the discretion of the ordinary within his jurisdiction.

V. That it be sufficient for the minister, in time of saying divine service, and ministering the sacraments, to use a surplice; and that no minister say service or minister the sacraments, but in a comely garment or habit.

VI. That the use of organs be removed.

(*Annals, Strype*, Oxford, 1824, I, p. 502.)

138. Privileges of Parliament

(1562)

D'Ewes' Journals

The privileges of the modern Parliament may be classed under seven heads: (1) Freedom of members from arrest and molestation; (2) freedom of speech and debate; (3) secrecy of debate; (4) privilege of access to the sovereign; (5) favourable construction by the sovereign of all actions of Parliament; (6) right of deciding contested elections; (7) right of each House to settle the order of its business. Various parliamentary rights belong to each House. It is the custom for the Speaker of the House of Commons to make the demand for the recognition of privilege at the meeting of each Parliament. The present privileges are the result of continued effort against the royal assumptions. The original privileges were far less extensive, including only the four privileges first enumerated in the following extract from the speech of Speaker Williams at the opening of Parliament of 1562.

...Further, I am to be a suitor to your Majesty, that when matters of importance shall arise whereupon it shall be necessary to have your Highness' opinion, that then I may have free access unto you for the same; and the like to the Lords of the Upper House.

Secondly, that in repairing from the Nether House to your Majesty or the Lords of the Upper House, to declare their meanings, and I mistaking on uttering the same contrary to their meaning, that then my fault or imbecility in declaring thereof be not prejudicial to the House, but that I may again repair to them, the better to understand their meanings, and so they to reform the same.

Thirdly, that the assembly of the Lower House may have frank and free liberties to speak their minds without any controlment, blame, grudge, menaces or displeasure, according to the old ancient order.

Finally, that the old privilege of the House be observed, which is that they and theirs might be at liberty, frank and free, without arrest, molestation, trouble or other damage to their bodies, lands, goods or servants, with all other their liberties, during the time of the said parliament; whereby they may the better attend and do their duty; all which privileges I desire may be enrolled, as at other times it hath been accustomed . . .

(*D'Ewes' Journals*, Lond. 1682, p. 65.)

139. Elizabeth and Mary Stuart

D'Ewes' Journals

No student of history can pass lightly over the pages which deal with Mary, Queen of Scots. This romantic figure in an age of romance is a character enigma not yet solved. The attitude of Elizabeth and Parliament toward Mary, when a prisoner in their hands, is well shown by the accompanying extract.

May it please your most excellent Majesty, We, your humble, loving and faithful subjects, the Lords and Commons in this present parliament assembled, having of long time, to our intolerable grief, seen by how manifold, most dangerous and execrable practices, Mary . . . commonly called the Queen of Scots, hath compassed the destruction of your Majesty's sacred and most royal person, in whose safety (next under God) our chief and only felicity doth lie, and thereby not only to bereave us of the sincere and true religion of Almighty God, bringing us and this noble crown back again into the thralldom of the Romish tyranny, but also utterly to ruinate and overthrow the happy state and commonweal of this most noble realm: . . . and seeing also what insolent boldness is grown in the heart of the same Queen, through your Majesty's former exceeding favours and clemencies towards her; and thereupon weighing, with heavy and sorrowful hearts, in what continual peril of such-like desperate conspiracies and practices your Majesty's most royal and sacred person and life (more dear unto us than our own) is and shall be still, without any possible means to prevent it, so long as the said Scottish Queen shall be suffered to continue, and shall not receive that due punishment which, by justice and the laws of this your realm, she hath so often and so many ways, for her most

wicked and detestable offences, deserved: therefore... We do most humbly beseech your most excellent Majesty that, as well in respect of the continuance of the true religion now professed amongst us and of the safety of your most royal person and estate, as in regard of the preservation and defence of us your most loving, dutiful and faithful subjects and the whole commonweal of this realm, it may please your Highness to take speedy order, that declaration of the same sentence and judgment be made and published by proclamation, and that thereupon direction be given for further proceedings against the said Scottish Queen, according to the effect and true meaning of the said statute [Stat. 27 Eliz. I. § 1]: because, upon advised and great consultation, we cannot find that there is any possible means to provide for your Majesty's safety, but by the just and speedy execution of the said Queen:... and if the same be not put in present execution, we your most loving and dutiful subjects, shall thereby (so far as man's reason can reach) be brought into utter despair of the continuance amongst us of the true religion of Almighty God, and of your Majesty's life, and the safety of all your faithful subjects, and the good estate of this most flourishing commonweal.

The Queen answered, 24 November, 1586:

That her Highness, moved with some commiseration for the Scottish Queen, in respect of her former dignity and great fortunes in her younger years, her nearness of kindred to her Majesty and also of her sex, could be well pleased to forbear the taking of her blood, if, by any other means to be devised by her Highness' Great Council of this realm, the safety of her Majesty's person and government might be preserved, without danger of ruin and destruction, and else not; therein leaving them all nevertheless to their own free liberty and dispositions of proceeding otherwise at their choice.

To which the Houses made reply:

That having often conferred and debated on that question, according to her Highness' commandment, they could find no other way than was set down in their petition.

The Queen's second answer.

If I should say unto you that I mean not to grant your petition, by my faith I should say unto you more than per-

haps I mean. And if I should say unto you I mean to grant your petition, I should then tell you more than is fit for you to know. And thus I must deliver you an answer answerless.

(*D'Ewes' Journals*, Rev. Ed. Lond., 1628 pp. 380-402.)

140. Defeat of the Spanish Armada

Somers' Tracts

The Great Armada has given a theme to innumerable writers. Of these Sir Robert Carey, Earl of Monmouth, best among contemporaries, condenses in a succinct yet vivid form the story of the futile attempt to conquer England.

CAREY'S ACCOUNT OF THE ARMADA

The next year (1588) the King of Spain's great Armado came upon our coast, thinking to devour us all. Upon the news sent to court from Plymouth of their certain arrival, my Lord Cumberland and myself took post horse, and rode straight to Portsmouth, where we found a frigate that carried us to sea; and having sought for the fleets a whole day, the night after we fell amongst them; where it was our fortune to light first on the Spanish fleet; and finding ourselves in the wrong, we tacked about, and in some short time got to our own fleet, which was not far from the other. At our coming aboard our admiral, we stayed there awhile; but finding the ship much pestered, and scant of cabins, we left the admiral, and went aboard Captain Reyman, where we stayed, and were very welcome, and much made of. It was on Thursday that we came to the fleet. All that day we followed close the Spanish Armado, and nothing was attempted on either side; the same course we held all Friday and Saturday, by which time the Spanish fleet cast anchor just before Calais. We likewise did the same, a very small distance behind them, and so continued till Monday morning about two of the clock; in which time our council of war had provided six old hulks, and stuffed them full of all combustible matter fit for burning, and on Monday, at two in the morning, they were let loose, with each of them a man in her to direct them. The tide serving, they brought them very near the Spanish fleet, so that they could not miss to come amongst the midst of them; then they set fire on them, and came off themselves, having each of them a little boat to bring him off. The ships set on fire came so directly to the Spanish fleet, as they had no way to avoid them, but to cut all their halsers, and so escape; and their haste was such,

that they left one of their four great galleasses on ground before Calais, which our men took, and had the spoil of, where many of the Spaniards were slain with the governor thereof, but most of them were saved with wading ashore to Calais. They being in this disorder, we made ready to follow them, where began a cruel fight, and we had such advantage both of wind and tide, as we had a glorious day of them; continuing fight from four o'clock in the morning till almost five or six at night, where they lost a dozen or fourteen of their best ships, some sunk, and the rest run ashore in divers parts to keep themselves from sinking. After God had given us this great victory, they made all the haste they could away, and we followed them Tuesday and Wednesday, by which time they were gotten as far as Flamborough-head. It was resolved on Wednesday at night, that, by four o'clock on Thursday, we should have a new fight with them for a farewell; but by two in the morning, there was a flag of council hung out in our vice-admiral, when it was found that in the whole fleet there was not munition sufficient to make half a fight; and therefore, it was there concluded, that we should let them pass, and our fleet to return to the Downs. That night we departed with them, we had a mighty storm. Our fleet cast anchor, and endured it; but the Spanish fleet, wanting their anchors, were many of them cast ashore on the west of Ireland, where they had all their throats cut by the kernes; and some of them on Scotland, where they were no better used; and the rest, with much ado, got into Spain again. Thus did God bless us, and gave victory over this invincible navy; the sea calmed, and all our ships came to the Downs on Friday in safety.

(Somers' *Collection of Tracts*, ed. cit., I, 445.)

141. The Armada Speech of Elizabeth¹

Somers' Tracts

The following speech of Elizabeth to Parliament is full of interest, not only for its subject matter, but also for the clear light which it throws upon the character of the queen. Her firmness, her finesse, her duplicity, and above all, her ability to manage men, can be read by the student of history in the public utterances of the great queen.

A SPEECH MADE BY QUEEN ELIZABETH (OF FAMOUS MEMORY)
IN PARLIAMENT, ANNO 1593: AND IN THE THIRTY-FIFTH
YEAR OF HER REIGN, CONCERNING THE SPANISH INVASION.

My Lords and Gentlemen,

This kingdom hath had many wise, noble, and victorious

princes; I will not compare with any of them in wisdom, fortitude, or any other virtues; but saving the duty of a child, that is not to compare with his father in love, care, sincerity, and justice, I will compare with any prince that ever you had, or shall have.

It may be thought simplicity in me, that, all this time of my reign, I have not sought to advance my territories, and enlarge my dominions; for opportunity hath served me to do it. I acknowledge my womanhood and weakness in that respect; but though it hath not been hard to obtain, yet I doubted how to keep the things so obtained; and I must say, my mind was never to invade my neighbours, or to usurp over any; I am contented to reign over my own, and to rule as a just princess.

Yet the king of Spain doth challenge me to be the quarreller, and the beginner of all these wars; in which he doth me the greatest wrong that can be, for my conscience doth not accuse my thoughts, wherein I have done him the least injury; but I am persuaded in my conscience, if he knew what I know, he himself would be sorry for the wrong, that he hath done me.

I fear not all his threatenings; his great preparations and mighty forces do not stir me; for though he come against me with a greater power than ever was his invincible navy, I doubt not (God assisting me, upon whom I always trust) but that I shall be able to defeat and overthrow him. I have great advantage against him, for my cause is just.

I heard say, when he attempted his last invasion, some upon the sea-coast forsook their towns, and flew up higher into the country, and left all naked and exposed to his entrance: but, I swear unto you, if I knew those persons, or any that should do so hereafter, I will make them know and feel what it is to be so fearful in so urgent a cause.

The subsidies you give me, I accept thankfully, if you give me your good wills with them; but if the necessity of the time, and your preservations, did not require it, I would refuse them; but let me tell you that the sum is not so much, but that it is needful for a princess to have so much always lying in her coffers for your defence in time of need, and not to be driven to get it, when we should use it.

You that be lieutenants and gentlemen of command in your countries, I require you to take care that the people be well armed, and in readiness upon all occasions. You that be judges and justices of the peace, I command and straightly

charge you, that you see the laws to be duly executed, and that you make them living laws, when we have put life into them.

(Somers' *Collection of Historical Tracts*, ed. cit., I, 463.)

142. Execution of Margaret Clitherow

John Mush

John Mush, who gives the following account, was an English secular priest, who was ordained in Rome and then came to the English mission. He was several times imprisoned, and once sentenced to death, for his fearless defence of his faith, yet he finally died peacefully at an extreme old age. Margaret Clitherow was executed on the charge of treason in concealing attainted priests, although in the account of her death it is strongly intimated that she was martyred because she would not recant her faith.

The martyr coming to the place, kneeled her down, and prayed to herself. The tormentors bade her pray with them, and they would pray with her. The martyr denied, and said, "I will not pray with you, and you shall not pray with me; neither will I say Amen to your prayers, nor shall you to mine." Then they willed her to pray for the Queen's majesty. The martyr began in this order. First, in the hearing of them all, she prayed for the Catholic Church, then for the Pope's Holiness, Cardinals, and other Fathers which have charge of souls, and then for all Christian princes. At which words the tormentors interrupted her, and willed her not to put her majesty among that company, yet the martyr proceeded in this order, "and especially for Elizabeth, Queen of England, that God turn her to the Catholic faith, and that after this mortal life she may receive the blessed joys of heaven. For I wish as much good," quoth she, "to her majesty's soul as to mine own." Sheriff Gibson, abhorring the cruel fact, stood weeping at the door. Then said Fawcett, "Mrs. Clitherow, you must remember and confess that you die for treason." The martyr answered, "No, no, Mr. Sheriff, I die for the love of my Lord Jesu"; which last words she spake with a loud voice...

The women took off her clothes, and put upon her the long habit of linen. Then very quietly she laid her down upon the ground, her face covered with a handkerchief, the linen habit being placed over her as far as it would reach, all the rest of her body being naked. The door was laid upon her, her hands she joined towards her face. Then the sheriff said, "Nay, you must have your hands bound." The

martyr put forth her hands over the door still joined. Then two sergeants parted them, and with the inkle strings, which she had prepared for that purpose bound them to two posts, so that her body and her arms made a perfect cross. They willed her again to ask the Queen's Majesty's forgiveness, and to pray for her. The martyr said she had prayed for her. They also willed her to asked her husband's forgiveness. The martyr said, "If ever I have offended him, but for my conscience, I ask him forgiveness."

After this they laid weight upon her, which when she first felt, she said, "Jesu! Jesu! Jesu! have mercy upon me!" which were the last words she was heard to speak.

She was in dying one quarter of an hour. A sharp stone, as much as a man's fist, put under her back; upon her was laid to the quantity of seven or eight hundred-weight at the least, which, breaking her ribs, caused them to burst forth of the skin.

Thus most victoriously this gracious martyr overcame all her enemies, passing [from] this mortal life with marvelous triumph into the peaceable city of God, there to receive a worthy crown of endless immortality and joy.

This was at nine of the clock, and she continued in the press until three at afternoon. Her hat before she died she sent to her husband, in sign of her loving duty to him as to her head. Her hose and shoes to her eldest daughter, Anne, about twelve years old, signifying that she should serve God and follow her steps of virtue.

(The Troubles of Our Catholic Forefathers Related by Themselves, p. 430 et seq. Mr. John Mush's Life of Margaret Clitherow, London, 1877.)

143. Death of Elizabeth

Somers' Tracts

The death of Queen Elizabeth closed the Tudor dynasty, the most brilliant completed period of English history. The account given is of especial interest for the portion concerning the act of the dying sovereign in relation to the succession to the throne. Other contemporary writers deny the intention of Elizabeth to appoint James of Scotland as her successor; and even if the account selected is true, the claim that James was absolutely named by Elizabeth as her heir was evidently largely founded on imagination and desire.

THE DEATH OF QUEEN ELIZABETH, WITH HER DECLARATION
OF HER SUCCESSOR

About the Friday sevenight after Christmas last, being about the 14th of January, 1602, in the 45th year of her reigne, the late queen about two days before sickened of a colde, (being ever forewarned by Doctor Dee, to beware of White-hall,) and the said 14th day removed to Richmond; but a little before her going, even the same morning, the Earle of Nottingham, high admirale of England, coming to her, partly to speake with her as concerning her removall, and partly touching other matters, wherein her pleasure and direction was to be knowne, they fell into some speech of the succession; and then she told him that her seate had been ever the throne of kings, and none but her next heir of blood and descent should succeed her. After falling into other matters, they left that speech, and she departed to Richmond; where she was well amended of the cold. But on Monday the 20th of February, she begann to sicken againe, and so continued till Monday the 7th of March, at which time notice was given to the lords of the councell, that she was sick of a cold, and so she continued sick till Tuesday the 15th of March following; after which day she began somewhat to amend. But the 18th of March following being Friday, she began to be very ill, whereupon the lords of the councell were sent for to Richmond, and there continued till Wednesday the 24th of March, about three of the clock in the morning (being our Lady even) at which time she died; but on Tuesday before her death, being the 23d of March, the lord admirall being on the right side of the bed, the lord keeper at the left, and Mr. Secretary Cecil (after Earle of Salisbury) at the beds feete; all standing.

The lord admirall put her in mind of her speech, concerning the succession, had at White-hall; and that they, in the name of all the rest of her councell, came unto her to knowe her pleasure who should succede. Whereunto she thus replied: "I told you my seat had been the seat of kings, and I will have no rascall to succeed me, and who should succeed me, but a king?"

The lords not understanding this darke speech, and looking the one on the other, at length Mr. Secretary boldly asked her, what she meant by these words, "That no rascall should succeed her?" whereunto she replied, "That her mean-

ing was, that a king should succeed her, and who," quoth she, "should that be, but our cozen of Scotland."

They asked her whether that were her absolute resolution? whereunto she answered, "I pray you trouble me no more, I'll have none but him"; with which answer they departed.

Notwithstanding, after again, about four a clock in the afternoon, the next day, being Wednesday, (after the archbishops of Canterbury and other divines had been with her, and left her in a manner speechlesse), the three lords aforesaid repaired unto her againe, asking her if she remained in her former resolution, and who should succeed her; but she not being able to speak, was asked by Mr. Secretary in this sort, wee beseech your majesty if you remaine in your former resolution, and that you would have the King of Scots to succeed you in your kingdom, shewe some sign unto us; whereat suddenly heaving herself upwards in the bed, and putting her arms out of bed, she held both her hands jointly together over her head in manner of a crown, whereby as they guessed she signified, that she did not only wish him the kingdome, but desired the continuance of his estate, after which they departed.

And the next morning (as is aforesaid) she dyed. Immediately after her death, all the lords, as well of the councell as other noblemen that were at the courte, came from Richmond to White-hall by six o'clock in the morning, where other noblemen that were at London met them; but as they began to sitt in councell in the privy chamber at White-hall, the lord keeper, (Sir Thomas Egerton,) and the rest of the councell that were no barons, offered to sitt at the lower end of the councell table, and not above any of the meanest nobility: but the noblemen, in respect of their former authority, called them to the higher end of the table, and wished them to keepe their places; whereunto the lord keeper answered, viz. If it be your lordships pleasure, wee will do so, but that is more of your courtesies then we can demand of duty; and so they sat downe, every man according to his degree in councell; touching the succession, where after some speech had of divers competitors and matters of state, at length the lord admirall rehearsed all the aforesaid premisses, which the late queen had spoken to him, and to the lord keeper, and Mr. Secretary, with the manner thereof; which they being asked, did affirme to be true upon their honours.

CHAPTER XIX

ELIZABETHAN SEAMEN

144. Hawkins' Third Voyage

Hakluyt

The activities of the Elizabethan seamen who bore the banner of England north, south, and west, and defied the power of Spain, the then lord of the New World, found their historian in RICHARD HAKLUYT (*circa* 1553-1616). The greatest of his works is *The Principal Navigations, Voyages, Traffiques, and Discoveries of the English Nation* (London, 1598-1600). "It is an invaluable treasure of material for the history of geographical discovery and colonization." Various editions are accessible. I have selected four accounts of voyages, each typical of the enterprise of the sea-rovers, who traversed many oceans in quest of slaves, treasure, discovery of a passage to Cathay, or spots on which to found colonies. The first of these voyages is that of Sir John Hawkins, told by that seaman himself. John Hawkins (*circa* 1532-1595) was Vice-Admiral in the time of the Armada, and before that day had been untiring in voyages of exploration. These were often extremely lucrative, as he secured large cargoes of slaves. His third voyage, of which the following is the account, is illustrative of one of the expeditions made for the latter purpose. In this traffic he did not stand alone among his contemporaries.

The Third troublesome Voyage made with the *Jesus* of Lubeck, the *Minion*, and four other ships, to the parts of Guinea and the West Indies, in the years 1567 and 1568, by Master JOHN HAWKINS.

The ships departed from Plymouth, the 2nd day of October, Anno 1567, and had reasonable weather until the seventh day. At which time, forty leagues north from Cape Finisterre, there arose an extreme storm, which continued four days, in such sort, that the fleet was dispersed, and all our great boats lost; and the *Jesus*, our chief ship, in such case as not thought able to serve the voyage. Whereupon in the same storm we set our course homeward, determining to give over the voyage. But the eleventh day of the same month, the wind changed with fair weather, whereby we

were animated to follow our enterprise, and so did, directing our course with the islands of the Canaries, where, according to an order before prescribed, all our ships before dispersed, met at one of those islands, called Gomera, where we took water, and departed from thence on the 4th day of November, towards the coast of Guinea, and arrived at Cape Verde, on the 18th day of November: where we landed 150 men, hoping to obtain some negroes, where we got but few, and those with great hurt and damage to our men, which chiefly proceeded of their envenomed arrows. And although in the beginning they seemed to be but small hurts, yet there hardly escaped any that had blood drawn of them, but died in strange sort, with their mouths shut some ten days before they died, and after their wounds were whole; where I myself had one of the greatest wounds, yet, thanks be to God, escaped. From thence we passed the time upon the coast of Guinea, searching with all diligence the rivers from Rio Grande unto Sierra Leone, till the 12th of January, in which time we had not gotten together a hundred and fifty negroes. Yet notwithstanding, the sickness of our men and the late time of the year commanded us away: and thus having nothing wherewith to seek the coast of the West Indies, I was with the rest of our company in consultation to go to the coast of the Mine, hoping there to have obtained some gold for our wares, and thereby to have defrayed our charge. But even in that present instant, there came to us a negro, sent from a king, oppressed by other kings his neighbours, desiring our aid, with promise that as many negroes as by these wars might be obtained, as well of his part as of ours, should be at our pleasure. Whereupon we concluded to give aid, and sent 120 of our men, which on the 15th of January assaulted a town of the negroes of our ally's adversaries, which had in it 8,000 inhabitants, being very strongly impaled and fenced after their manner. But it was so well defended, that our men prevailed not, but lost six men and forty hurt: so that our men sent forthwith to me for more help. Whereupon, considering that the good success of this enterprise might highly further the commodity of our voyage, I went myself, and with the help of the king of our side, assaulted the town, both by land and by sea and very hardly with fire (their houses being covered with dry palm leaves) obtained the town and put the inhabitants to flight, where we took 250 persons, men, women, and children, and by our friend the king of our side, there were taken 600 prisoners,

whereof we hoped to have had our choice. But the negro (in which nation is seldom or never found truth) meant nothing less: for that night he removed his camp and prisoners, so that we were fain to content us with those few which we had gotten ourselves.

Now had we obtained between four and five hundred negroes, wherewith we thought it somewhat reasonable to seek the coast of the West Indies; and there, for our negroes, and other our merchandise, we hoped to obtain whereof to countervail our charges with some gains. Whereunto we proceeded with all diligence, furnished our watering, took fuel, and departed the coast of Guinea on the 3d of February, continuing at the sea with a passage more hard than before hath been accustomed till the 27th day of March, which day we had sight of an island, called Dominica, upon the coast of the West Indies, in fourteen degrees. From thence we coasted from place to place, making our traffic with the Spaniards as we might, somewhat hardly, because the king had straitly commanded all his governors in those parts by no means to suffer any trade to be made with us. Notwithstanding, we had reasonable trade, and courteous entertainment, from the Isle of Margarita unto Cartagena, without anything greatly worth the noting, saving at Capo de la Vela, in a town called Rio de la Hacha, from whence come all the pearls. The treasurer, who had the charge there, would by no means agree to any trade, or suffer us to take water. He had fortified his town with divers bulwarks in all places where it might be entered, and furnished himself with an hundred arquebusiers, so that he thought by famine to have enforced us to have put on land our negroes. Of which purpose he had not greatly failed, unless we had by force entered the town; which (after we could by no means obtain his favour) we were enforced to do, and so with two hundred men brake in upon their bulwarks, and entered the town with the loss only of two men of our part, and no hurt done to the Spaniards, because after their volley of shot discharged, they all fled. Thus having the town with some circumstance, as partly by the Spaniards' desire of negroes, and partly by friendship of the treasurer, we obtained a secret trade: whereupon the Spaniards resorted to us by night, and bought of us to the number of 200 negroes. In all other places where we traded the Spanish inhabitants were glad of us and traded willingly.

145. Drake's famous Voyage

Hakluyt

Sir Francis Drake (*circa* 1545-1595) began his naval career as a chaplain and died an admiral. His greatest voyage was that around the world, begun in 1577. This was made in the ship *The Golden Hind*, which Elizabeth ordered to be forever preserved as a monument of the glory of the navigators and the country. Drake's circumnavigation of the world was but one of many successful voyages. In these days, when piracy and robbery are not the necessary accompaniments of exploration, his exploits appear well-nigh incredible. Yet there is good evidence of the truth of the tales of towns sacked, galleons plundered, and treasures of silver, gold, and jewels secured. Above all seamen of his time, Drake bearded the Spanish power and tore from it the mastery of the seas. The voyage given is from the pen of one who himself sailed with Drake. It well illustrates the progress of the second great incentive to English exploration in the sixteenth century, the plunder of the Spaniard.

NARRATIVE OF FRANCIS PRETTY

The Famous Voyage of Sir FRANCIS DRAKE, into the South Sea, and therehence about the whole globe of the earth, begun in the year of our Lord, 1577.

On the 15th day of November, in the year of our Lord 1577, Mr. Francis Drake, with a fleet of five ships and barques, and to the number of 164 men, gentlemen and sailors, departed from Plymouth....

On the 17th of August we departed the port of St. Julian, and on the 20th we fell in with the Straits of Magellan, going into the South Sea, at the cape or headland whereof we found the body of a dead man, whose flesh was clean consumed. On the 21st day we entered the Straits... We continuing our course, fell the 29th of November with an island called La Mocha... the next day repairing again to the shore, and sending two men to land with barrels to fill water, the people taking them for Spaniards (to whom they use to show no favor if they take them) laid violent hands on them, and, as we think, slew them.

Our General seeing this, stayed here no longer, but weighed anchor, and set sail towards the coast of Chili, and drawing towards it, we met near to the shore an Indian in a Canoe, who thinking us to have been Spaniards, came to us and told us, that at a place called Santiago, there was a great Spanish ship laden from the kingdom of Peru, for which good news our General gave him divers trifles. Whereof he

was glad, and went along with us and brought us to the place, which is called the port of Valparaiso. When we came thither we found, indeed, the ship riding at anchor, having in her eight Spaniards and three negroes, who, thinking us to have been Spaniards, and their friends, welcomed us with a drum, and made ready a Bottija of wine of Chili to drink to us. But as soon as we were entered, one of our company called Thomas Moon began to lay about him, and struck one of the Spaniards, and said unto him, "Abaxo perro!" that is in English, "Go down, dog!" One of these Spaniards, seeing persons of that quality in these seas, all to crossed and blessed himself. But, to be short, we stowed them under hatches, all save one Spaniard, who suddenly and desperately leapt over-board into the sea, and swam ashore to the town of Santiago, to give them warning of our arrival.

They of the town being not above nine households, presently fled away and abandoned the town. Our General manned his boat and the Spanish ship's boat and went to the town, and being come to it, we rifled it, and came to a small chapel, which we entered, and found therein a silver chalice, two cruets, and one altar-cloth, the spoil whereof our General gave to Mr. Fletcher, his minister. We found, also in this town a warehouse stored with wine of Chili and many boards of cedar-wood, all which wine we brought away with us, and certain of the boards to burn for firewood. And so, being come aboard, we departed the haven, having first set all the Spaniards on land, saving one John Griego, a Greek born, whom our General carried with him as pilot to bring him into the haven of Lima.

When we were at sea our General rifled the ship, and found in her good store of the wine of Chili, and 25,000 pesos of very pure and fine gold of Valdivia, amounting in value to 37,000 ducats of Spanish money, and above. So, going on our course, we arrived next at a place called Coquimbo, where our General sent fourteen of his men on land to fetch water. But they were espied by the Spaniards, who came with 300 horsemen and 200 footmen, and slew one of our men with a piece. The rest came aboard in safety, and the Spaniards departed. We went on shore again and buried our man, and the Spaniards came down again with a flag of truce; but we set sail, and would not trust them. From hence we went to a certain port called Tarapaca, where, being landed, we found by the sea a Spaniard lying asleep, who had lying by him thirteen bars of silver, which weighed

2,000 ducats Spanish. We took the silver and left the man. Not far from hence, going on land for fresh water, we met with a Spaniard and an Indian boy driving eight llamas or sheep of Peru, which are as big as asses; everyone of which sheep had on his back two bags of leather, each bag containing 50 lbs. weight of fine silver. So that, bringing both the sheep and their burthen to the ship, we found in all the bags 800 weights of silver.

Herehence we sailed to a place called Arica, and, being entered the haven, we found there three small barques, which we rifled, and found in one of them fifty-seven wedges of silver, each of them weighing about 20 lbs. weight, and every of these wedges were of the fashion and bigness of a brickbat. In all these three barques we found not one person. For they, mistrusting no strangers, were all gone on land to the town, which consisteth of about twenty houses, which we would have ransacked if our company had been better and more in number. But our General, contented with the spoil of the ships, left the town and put off again to sea, and set sail for Lima, and, by the way, met with a small barque, which he boarded, and found in her good store of linen cloth. Whereof taking some quantity, he let her go.

To Lima we came on the 13th of February, and, being entered the haven, we found there about twelve sail of ships lying fast moored at anchor, having all their sails carried on shore; for the masters and merchants were here most secure, having never been assaulted by enemies, and at this time feared the approach of none such as we were. Our General rifled these ships, and found in one of them a chest full of reals of plate, and good store of silks and linen cloth, and took the chest into his own ship, and good store of silks and linen. In which ship he had news of another ship called the Cacafuego, which was gone towards Payta, and that the same ship was laden with treasure. Whereupon we stayed no longer here, but, cutting all the cables of the ships in the haven, we let them drive whither they would, either to sea or to the shore, and with all speed we followed the Cacafuego toward Payta, thinking there to have found her; but before we arrived there she was gone from thence towards Panama, whom our General still pursued, and by the way met with a barque laden with ropes and tackle for ships, which he boarded and searched, and found in her 80 lbs. weight of gold, and a crucifix of gold with goodly great emeralds set in it, which he took, and some of the cordage also for his own ship.

From hence we departed, still following the Cacafuego; and our General promised our company that whosoever should first descry her should have his chain of gold for his good news. It fortuned that John Drake, going up into the top, descried her at about three o'clock, and at about six o'clock we came to her and boarded her, and shot at her three pieces of ordnance, and struck down her mizen, and, being entered, we found in her great riches, as jewels and precious stones, thirteen chests full of reals of plate, four-score pounds weight of gold, and six-and-twenty tons of silver. The place where we took this prize was called Cape de San Francisco, about 150 leagues from Panama. The pilot's name of this ship was Francisco, and amongst other plate that our General found in this ship he found two very fair gilt bowls of silver, which were the pilot's, to whom our General said, "Señor Pilot, you have here two silver cups; but I must needs have one of them," which the pilot, because he could not otherwise choose, yielded unto, and gave the other to the steward of our General's ships. When this pilot departed from us, his boy said thus unto our General, "Captain, our ship shall be called no more the Cacafuego, but the Cacaplata, and your ship shall be called the Cacafuego," which pretty speech of the pilot's boy ministered matter of laughter to us, both then and long after. When our General had done what he would with this Cacafuego, he cast her off, and we went on our course still towards the west, and not long after met with a ship laden with linen cloth and fine China dishes of white earth, and great store of China silks, of all which things we took as we listed. The owner himself of this ship was in her, who was a Spanish gentleman, from whom our General took a faulcon of gold, with a great emerald in the breast thereof; and the pilot of the ship he took also with him, and so cast the ship off.

This pilot brought us to the haven of Aguatulco, the town whereof, as he told us, had but seventeen Spaniards in it. As soon as we were entered this haven, we landed, and went presently to the town and to the Town-house, where we found a judge sitting in judgment, being associated with three other officers, upon three negroes that had conspired the burning of the town. Both which judges and prisoners we took, and brought them a-shipboard, and caused the chief judge to write his letter to the town to command all the townsmen to avoid, that we might safely water there, which being done, and they departed, we ransacked the town, and

in one house we found a pot, of the quantity of a bushel, full of reals of plate, which we brought to our ship. And here one Thomas Moon, one of our company, took a Spanish gentlemen as he was flying out of the town, and, searching him, he found a chain of gold about him, and other jewels, which he took, and so let him go. At this place our General, among other Spaniards, set ashore his Portuguese pilot which he took at the Islands of Cape Verde out of a ship of St. Mary Port, of Portugal; and having set them ashore we departed hence, and sailed to the Island of Canno, where our General landed, and brought to shore his own ship, and discharged her, mended and graved her, and furnished our ship with water and wood sufficiently....

On the 5th of June, being in forty-three degrees towards the Arctic Pole, we found the air so cold, that our men being grievously pinched with the same, complained of the extremity thereof, and the further we went, the more the cold increased upon us. Whereupon we thought it best for that time to seek the land, and did so, finding it not mountainous, but low plain land, till we came within thirty-eight degrees towards the line. In which height it pleased God to send us into a fair and good bay, with a good wind to enter the same. In this bay we anchored, and the people of the country having their houses close by the waterside, shewed themselves unto us, and sent a present to our General. When they came unto us, they greatly wondered at the things that we brought, but our General (according to his natural and accustomed humanity) courteously entreated them, and liberally bestowed on them necessary things to cover their nakedness, whereupon they supposed us to be gods, and would not be persuaded to the contrary: the presents which they sent to our General, were feathers, and cauls of net-work. Their houses were digged round about with earth, and have from the uttermost brims of the circle, cliffs of wood set upon them, joined close together at the top like a spire steeple, which by reason of that closeness are very warm. Their bed is the ground with rushes strewed on it, and lying about the house, they have the fire in the midst. The men go naked, the women take bulrushes, and comb them after the manner of hemp, and thereof make their loose garments, which being knit about their middles, hang down about their hips, having also about their shoulders a skin of deer, with the hair upon it. These women are very obedient and serviceable to their husbands....

Our General called this country New Albion, and that for two causes, the one in respect of the white banks and cliffs, which lie towards the sea, and the other, because it might have some affinity with our country in name, which sometimes was so called. There is no part of earth here to be taken up, wherein there is not probable show of gold or silver. . . .

When we had ended our business here we weighed, and set sail to run for the Moluccas; but having at that time a bad wind, and being amongst the islands, with much difficulty we recovered to the northward of the island of Celebes, where by reason of contrary winds, not able to continue our course to run westwards, we were enforced to alter the same to the southward again, finding that course also to be very hard and dangerous for us, by reason of infinite shoals which lie off and among the islands; whereof we had too much trial to the hazard and danger to our ship and lives. For, of all other days, upon the 9th of January, in the year 1580, we ran suddenly upon a rock, where we stuck fast from eight o'clock at night till four o'clock in the afternoon the next day, being indeed out of all hope to escape the danger; but our General as he had always hitherto shewed himself courageous, and of a good confidence in the mercy and protection of God; so now he continued in the same, and lest he should seem to perish wilfully, both he and we did our best endeavour to save ourselves, which it pleased God so to bless, that in the end we cleared ourselves most happily of the danger.

We lightened our ship upon the rocks of three tons of cloves, eight pieces of ordnance, and certain meal and beans; and then the wind (as it were in a moment by the special grace of God) changing from the starboard to the larboard of the ship, we hoisted our sails, and the happy gale drove our ship off the rock, into the sea again, to the no little comfort of all our hearts, for which we gave God such praise and thanks, as so great a benefit required.

On the 8th of February following, we fell in with the fruitful island of Barateue, [Borneo] having in the mean time suffered many dangers by winds and shoals. . . .

At our departure from Barateue, we set our course for Java Major, [Java] where arriving, we found great courtesy, and honourable entertainment. . . .

Not long before our departure, they told us that not far off there were such great ships as ours, wishing us to be-

ware; upon this our captain would stay no longer. From Java Major we sailed for the Cape of Good Hope, which was the first land we fell in withal; neither did we touch with it, or any other land, until we came to Sierra Leone, upon the coast of Guinea; notwithstanding we ran hard aboard the Cape, finding the report of the Portuguese to be most false, who affirm that it is the most dangerous Cape of the world, never without intolerable storms and present danger to travellers which come near the same. This Cape is a most stately thing, and the fairest Cape we saw in the whole circumference of the earth, and we passed by it on the 18th of June. From thence we continued our course to Sierra Leone, on the coast of Guinea, where we arrived on the 22nd of July, and found necessary provisions, great store of elephants, oysters upon trees of one kind, spawning and increasing infinitely, the oyster suffering no bud to grow. We departed thence on the 24th day.

We arrived in England on the 3rd of November, 1580, being the third year of our departure.

(Hakluyt, ed. cit., p. 145.)

146. Frobisher's First Voyage

Hakluyt

Sir Martin Frobisher (1535-1594) was distinctively the navigator of the time of Elizabeth in whom Columbus' desire to discover a short passage to Cathay found expression. Through this, the third great incentive to English exploration, he made voyage after voyage to the northern coast of America. The account of George Best, one of those who accompanied Frobisher on his first voyage, well illustrates the character of the expedition, and also gives us a view of the speculative fever that burned in the veins of Englishmen. To these the pyrites—well termed "fools' gold"—brought back by Frobisher, opened visions of treasure surpassing that of the fabled city of Manoa.

NARRATIVE BY GEORGE BEST

Which thing being well considered, and familiarly known to our general Captain Frobisher, as well for that he is thoroughly furnished of the knowledge of the sphere and all other skills appertaining to the art of navigation; as also for the confirmation he hath of the same by many years' experience both by sea and land, and being persuaded of a new and nearer passage to Cathay than by Capo de Buona Sperança, which the Portuguese yearly use: he began first with himself to devise, and then with his friends to confer, and laid a plain plot unto them that that voyage was not only

possible by the north-west, but also, he could prove, easy to be performed....

He prepared two small barques of twenty and five-and-twenty tons a-piece, wherein he intended to accomplish his pretended voyage. Wherefore, being furnished with the forsaid two barques, and one small pinnace of ten tons burden, having therein victuals and other necessities for twelve months' provision, he departed upon the said voyage from Blackwall, on the 15th of June, anno domini 1576....

... And on the 20th of July he had sight of an high land, which he called Queen Elizabeth's Foreland, after her Majesty's name. And sailing more northerly along that coast, he descried another foreland, with a great gut, bay, or passage, dividing as it were two main lands or continents asunder. There he met with store of exceeding great ice all this coast along, and coveting still to continue his course to the northwards, was always by contrary winds detained overthwart these straits, and could not get beyond. Within a few days after, he perceived the ice to be well consumed and gone, either there engulfed in by some swift currents or indrafts, carried more to the southwards of the same straits, or else conveyed some other way; wherefore he determined to make proof of this place, to see how far that gut had continuance, and whether he might carry himself through the same into some open sea on the back-side, whereof he conceived no small hope; and so entered the same on the 21st day of July, and passed above fifty leagues therein, as he reported, having upon either hand a great main of continent....

And it is especially to be remembered that at their first arrival in those parts there lay so great store of ice all the coast along, so thick together, that hardly his boat could pass unto the shore. At length, after divers attempts, he commanded his company, if by any possible means they could get ashore, to bring him whatsoever thing they could first find, whether it were living or dead, stock or stone, in token of Christian possession, which thereby he took in behalf of the Queen's Most Excellent Majesty, thinking that thereby he might justify the having and enjoying of the same things that grew in these unknown parts.

Some of his company brought flowers, some green grass, and one brought a piece of black stone, much like to a sea coal in colour, which by the weight seemed to be some kind of metal or mineral. This was a thing of no account in the

judgment of the captain at first sight; and yet for novelty it was kept in respect of the place from whence it came.

After his arrival in London, being demanded of sundry his friends what thing he had brought them home out of that country, he had nothing left to present them withal but a piece of this black stone. And it fortun'd a gentlewoman, one of the adventurers' wives, to have a piece thereof, which by chance she threw and burned in the fire, so long, that at the length being taken forth and quenched in a little vinegar, it glistered with a bright marquesite of gold. Whereupon the matter being called in some question, it was brought to certain gold-finers in London to make assay thereof, who gave out that it held gold, and that very richly for the quantity. Afterwards the same gold-finers promised great matters thereof if there were any store to be found and offered themselves to adventure for the searching of those parts from whence the same was brought. Some that had great hope of the matter sought secretly to have a lease at Her Majesty's hands of those places, whereby to enjoy the mass of so great a public profit unto their own private gains.

(Hakluyt, ed. cit., p. 64.)

147. The Beginnings of American Colonization

Hakluyt

In 1584 Sir Walter Raleigh fitted out an expedition for the purpose of exploration with a view to establishing a colony. This resulted in the discovery of a country which was afterward known as Virginia. The extract given was written by Arthur Barlowe, one of the captains of the expedition, and by him sent to Raleigh. The account is more picturesque than accurate, but is interesting as illustrating the fourth of the great incentives to the sea-rovers of the Elizabethan era — the incentive of colonization.

FIRST VOYAGE TO VIRGINIA

(1584)

The 27th day of April, in the year of our redemption, 1584, we departed the West of England, with two barks well furnished with men and victuals, having received our last and perfect directions by your letters, confirming the former instructions and commandments delivered by yourself at our leaving the river of Thames. And I think, in a matter both unnecessary, for the manifest discovery of the Country, as also for tediousness sake, to remember unto you the diurnal of our course, sailing thither and returning; only I have presumed to present unto you this brief discourse, by

which you may judge how profitable this land is like to succeed, as well to yourself (by whose direction and charge, and by whose servants this our discourse hath been performed) as also to her Highness, and the Commonwealth, in which we hope your wisdom will be satisfied, considering that as much by us hath been brought to light, as by those small means, and number of men we had, could any way have been expected, or hoped for.

The tenth of May we arrived at the Canaries, and the tenth of June in this present year, we were fallen with the Islands of the West Indies. . . .

The second of July, we found shoal water, where we smelt so sweet and so strong a smell, as if we had been in the midst of some delicate garden abounding with all kinds of odoriferous flowers, by which we were assured, that the land could not be far distant: and keeping good watch, and bearing good slack sail, the fourth of the same month we arrived upon the coast, which we supposed to be a continent and firm land, and we sailed along the same a hundred and twenty English miles before we could find any entrance, or river issuing into the sea. The first that appeared unto us, we entered, though not without some difficulty, and cast anchor about three arquebus-shot within the haven's mouth, on the left hand of the same; and after thanks given to God for our safe arrival thither, we manned our boats, and went to view the land next adjoining, and "to take possession of the same, in the right of the Queen's most excellent Majesty, as rightful Queen, and Princess of the same, and after delivered the same over to your use, according to her Majesty's grant, and letters patent, under her Highness' Great Seal. Which being performed, according to the ceremonies used in such enterprises, we viewed the land about us, being, whereas we first landed, very sandy and low towards the water's side, but so full of grapes, as the very beating and surge of the sea overflowed them. . . .

We passed from the sea side towards the tops of those hills next adjoining, being but of mean height, and from thence we beheld the sea on both sides to the north, and to the south, finding no end any of both ways. This land lay stretching itself to the west, which after we found to be but an island of twenty miles long, and not above six miles broad. Under the bank or hill whereon we stood, we beheld the valleys replenished with goodly cedar trees, and having discharged our harquebus-shot, such a flock of cranes (the

most part white) arose under us, with such a cry redoubled by many echoes, as if an army of men had shouted all together.

The islands had many goodly woods full of deer, conies, hares, and fowl, even in the midst of summer in incredible abundance. The woods are not such as you find in Bohemia, Moscovia, or Hercynia, barren and fruitless, but the highest and reddest of cedars in the world, far bettering the cedars of the Azores, of the Indies, or Libanus; pines, cypress, sassafras, the lentiscus, or the tree that beareth the mastic, the tree that beareth the rinde of black cinammon, of which Master Winter brought from the Straits of Magellan, and many other of excellent smell and quality. We remained by the side of the Islands two whole days before we saw any people of the country: the third day we espied one small boat rowing towards us, having in it three persons: this boat came to the Island side, four arquebus-shot from our ships, and there two of the people remaining, the third came along the shoreside towards us, and we being then all within board, he walked up and down upon the point of the land next unto us: then the master and the pilot of the Admiral, Simon Ferdinando, and the Captain Philip Amadas, myself, and others rowed to the land, whose coming this fellow attended, never making any show of fear or doubt. And after he had spoken of many things not understood by us, we brought him with his own good liking, aboard the ships, and gave him a shirt, a hat, and some other things, and made him taste of our wine, and our meat, which he liked very well: and after having viewed both barks, he departed, and went to his own boat again, which he had left in a little cove or creek adjoining: as soon as he was two bow shot into the water, he fell to fishing, and in less than half an hour, he had laden his boat as deep, as it could swim, with which he came again to the point of land, and there he divided his fish into two parts, appointing one part to the ship, and the other to the pinnace: which, after he had (as much as he might) requited the former benefits received, departed out of our sight.

The next day there came unto us divers boats, and in one of them the King's brother, accompanied with forty or fifty men, very handsome and goodly people, and in their behavior as mannerly and civil as any in Europe. His name was Granganimeo, and the king is called Wingina, the country Wingandacoa, and now by her Majesty Virginia....

The soil is very plentiful, sweet, fruitful and wholesome of all the world: there are about fourteen several sweet smelling timber trees, and most part of their underwoods are bays, and such like: They have those oaks that we have, but far greater and better. After they had been divers times aboard our ships, myself, with seven more went twenty mile into the river, that runneth toward the city of Skicoak, which river they call Occam: and the evening following, we came to an island, which they call Roanoak, distant from the harbor by which we entered, seven leagues: and at the north end thereof there was a village of nine houses, built of cedar, and fortified round about with sharp trees, to keep out their enemies, and the entrance into it made like a turn-pike very artificially. . . .

Beyond this island there is the main land, and over against this island falleth into this spacious water, the great river called Occam by the inhabitants, on which standeth a town called Pomeiock, and six days journey from the same is situated their greatest city, called Skicoak, which this people affirm to be very great: but the savages were never at it, only they speak of it by the report of their fathers and other men, whom they have heard affirm it to be about one hour's journey about.

Into this river falleth another great river, called Cipo, in which there is found great store of muscles in which there are pearls: likewise there descendeth into this Occam, another river, called Nomopana. . . .

Towards the Southwest, four day's journey is situated a town called Sequotan, which is the southermost town of Wingandacoa, near unto which, six and twenty years past, there was a ship cast away, whereof some of the people were saved, and those were white people, whom the country people preserved. . . other than these, there was never any people apparelled, or white of colour, either seen, or heard of amongst these people, and these aforesaid were seen only by the inhabitants of Secotan, which appeared to be very true, for they wondered marvelously when we were amongst them at the whiteness of our skins, ever coveting to touch our breasts, and to view the same. Besides they had our ships in marvelous admiration and all things else were so strange unto them, as it appeared that none of them had ever seen the like. When we discharged any piece, were it but an arquebus, they would tremble thereat for very fear, and for the strangeness of the same: for the weapons which

themselves use are bows and arrows: the arrows are but of small canes, headed with a sharp shell or tooth of a fish sufficient enough to kill a naked man. Their swords be of wood hardened: likewise they use wooden breastplates for their defence. They have beside a kind of club, in the end whereof they fasten the sharp horns of a stag, or other beast. When they go to wars they carry about with them their idol, of whom they ask counsel, as the Romans were wont of the oracle of Apollo. They sing songs as they march towards the battle instead of drums and trumpets: their wars are very cruel and bloody, by reason whereof and of their civil dissensions which have happened of late years amongst them, the people are marvelously wasted, and in some places the country left desolate. . . .

Beyond this island called Roanoak, are main islands very plentiful of fruits and other natural increases, together with many towns, and villages, along the side of the continent, some bounding upon the islands, and some stretching up further into the land. . . .

Thus Sir, we have acquainted you with the particulars of our discovery made this present voyage, as far forth as the shortness of the time we were continued would afford us to take views of: and so contenting ourselves with this service at this time, which we hope hereafter to enlarge, as occasion and assistance shall be given, we resolved to leave the country, and to apply ourselves to return for England, which we did accordingly, and arrived safely in the west of England about the middle of September.

(Ed. from Hakluyt, *The Principal Navigations, etc.*, Lond., 1598-1600.)

PART VI

THE STRUGGLE FOR CONSTITU-
TIONAL GOVERNMENT

(1603-1688)

CHAPTER XX

THE REIGN OF JAMES I.

148. Coronation Oath of James I.

Tanner MSS.

The following oath should be compared with that taken by Edward II., four centuries earlier (No. 89). In that space of four centuries, with all the tremendous changes in ecclesiastical organization, the coronation oaths of the sovereigns of England altered but little; yet in comparing those instanced, we find sufficient difference to indicate that the king had taken the place which the Pope once held, and that the Church of the State was no longer the child of Rome.

Archbishop. Sir, will you grant and keep and by your oath confirm to your people of England the laws and customs to them granted by the kings of England your lawful and religious predecessors; and namely the laws, customs and franchises granted to clergy and to the people by the glorious king, St. Edward, your predecessor, according and conformable to the laws of God and true profession of the gospel established in this kingdom, and agreeing to the prerogatives of the kings thereof and to the ancient customs of this realm?

King. I grant and promise to keep them.

A. Will you keep peace and agreement entirely, according to your power, both to God, the holy church, the clergy and the people?

K. I will keep it.

A. Will you to your power cause law, justice and discretion in mercy and truth to be executed in all your judgments?

K. I will.

A. Sir, will you grant to hold and keep the laws and rightful customs which the commonalty of your kingdom have, and to defend and uphold them to the honour of God, so much as in you lieth?

K. I grant and promise so to do.

Sequitur admonitio episcoporum, etc.

Our lord and king, we beseech you to grant and preserve unto us and every one of us and the churches committed to our charge all canonical privileges and due law and justice, and that you would protect and defend us as every good king in his kingdom ought to be a protector and defender of the bishops and churches under their government.

K. With a willing and devout heart I promise and grant that I will preserve and maintain to you and every of you and the churches committed to your charge all canonical privileges and due law and justice, and that I will be your protector and defender to my power by the assistance of God, as every good king in his kingdom ought to protect and defend the bishops and churches under their government.

(*Statutes and Constitutional Documents*, Prothero, Oxford, 1894, p. 391.)

149. The Crown above the Courts

James I.

The cause of the ruin of the Stuart dynasty may be read in the political works of the first English king of that house. In the mind of James I. the doctrine of the divine right of kings and of the absolute power of the sovereign were firmly fixed. These theories were expressed by the acts as well as the words of the first Stuart. In the speech which he made in the Star Chamber on June 20, 1601, the subordination of the judicial power to that of the Crown is stated clearly and positively.

...I am next to come to the limits wherein you are to bound yourselves, which likewise are three. First, encroach not upon the prerogative of the crown: if there falls out a question that concerns my prerogative or mystery of state, deal not with it, till you consult with the king or his council, or both; for they are transcendent matters and must not be deliberately carried out with over-rash wilfulness.... That which concerns the mystery of the king's power is not lawful to be disputed; for that is to wade into the weakness of princes, and to take away the mystical reverence that belongs unto them that sit on the throne of God.

Secondly, that you keep yourselves within your own benches, not to invade other jurisdictions, which is unfit and an unlawful thing. Keep you therefore all in your own bounds, and for my part, I desire you to give me no more right, in my private prerogative, than you give any subject, and therein I will be acquiescent: as for the absolute prerog-

ative of the crown, that is no subject for the tongue of a lawyer, nor is lawful to be disputed.

It is atheism and blasphemy to dispute what God can do: good Christians content themselves with his will revealed in his word, so it is presumption and high contempt in a subject to dispute what a king can do, or say that a king cannot do this or that; but rest in that which is the king's revealed will in his law.

(*Works of James I.*, Lond., 1616, p. 556.)

150. The King is above the Law

James I.

James I. from the first day of his reign disclaimed the power of Parliament to control the will of the sovereign. He claimed the power to make, amend or alter laws as well as the right to abrogate them. The dispensing and suspending power was affirmed in its most arbitrary form. The following selection aptly illustrates the Stuart theory of the royal prerogative.

According to these fundamental laws already alleged, we daily see that in the parliament (which is nothing else but the head court of the king and his vassals) the laws are but craved by his subjects, and only made by him at their roagation and with their advice: for albeit the king make daily statutes and ordinances, enjoining such pains thereto as he thinks meet, without any advice of parliament or estates, yet it lies in the power of no parliament to make any kind of law or statute, without his sceptre be to it, for giving it the force of a law . . . And as ye see it manifest that the king is over-lord of the whole land, so is he master over every person that inhabiteth the same, having power over the life and death of every one of them: for although a just prince will not take the life of any of his subjects without a clear law, yet the same laws whereby he taketh them are made by himself or his predecessors; and so the power flows always from himself; as by daily experience we see good and just princes will from time to time make new laws and statutes, adjoining the penalties to the breakers thereof, which before the law was made had been no crime to the subject to have committed . . . And where he sees the law doubtful or rigorous, he may interpret or mitigate the same, lest otherwise *summum jus* be *summa injuria*: and therefore general laws made publicly in parliament may upon known respects to the king by his authority be mitigated and suspended upon causes only known to him.

As likewise, although I have said a good king will frame

all his actions to be according to the law, yet is he not bound thereto but of his good will, and for good example-giving to his subjects . . . So as I have already said, a good king, though he be above the law, will subject and frame his actions thereto, for example's sake to his subjects, and of his own free will, but not as subject or bound thereto. . . .

(*Law of Free Monarchies* in *Works of James I.*, p. 202, ed. cit.)

151. The Millenary Petition

(1603)

Church History, Fuller

While James I. was journeying to London to take his place on the English throne, the Puritan clergy presented to him the paper known to us as the Millenary Petition. This document received its name from the number of signatures supposed to be attached thereto, although it is doubtful if it was signed at all. The petition prayed for "a reformation in the church service, ministry, livings, and discipline." The petition led to the Hampton Court Conference, in which James declared his adherence to the Episcopal form of church government as carried out by the Anglican Church.

THE HUMBLE PETITION OF THE MINISTERS OF THE CHURCH OF ENGLAND DESIRING REFORMATION OF CERTAIN CER- EMONIES AND ABUSES OF THE CHURCH

To the most Christian and excellent prince, our gracious and dread Sovereign, James, by the grace of God, etc., we, the ministers of the Church of England that desire reformation, wish a long, prosperous and happy reign over us in this life, and in the next everlasting salvation.

Most gracious and dread Sovereign, seeing it hath pleased the Divine Majesty, to the great comfort of all good Christians, to advance your Highness, according to your just title, to the peaceable government of this church and commonwealth of England, we, the ministers of the gospel in this land, neither as factious men affecting a popular parity in the church nor as schismatics aiming at the dissolution of the state ecclesiastical, but as the faithful servants of Christ and loyal subjects to your Majesty, desiring and longing for the redress of divers abuses of the church, could do no less in our obedience to God, service to your Majesty, love to his church, than acquaint your princely Majesty with our particular griefs. For, as your princely pen writeth, "The King as a good physician must first know what peccant humours his patient naturally is most subject unto before he can begin

his cure. And although divers of us that sue for reformation have formerly in respect of the times subscribed to the book, some upon protestation, some upon exposition given them, some with condition, rather than the church should have been deprived of their labour and ministry, yet now we, to the number of more than a thousand of your Majesty's subjects and ministers, all groaning as under a common burthen of human rites and ceremonies, do with one joint consent humble ourselves at your Majesty's feet, to be eased and relieved in this behalf. Our humble suit then unto your Majesty is, that [of] these offences following, some may be removed, some amended, some qualified:

I. *In the church service*:—That the cross in baptism, interrogatories ministered to infants, confirmation, as superfluous, may be taken away. Baptism not to be ministered by women, and so explained. The cap and surplice not urged. That examination may go before the communion. That it be ministered with a sermon. That divers terms of *priests* and *absolution* and some other used, with the ring in marriage, and other such like in the book may be corrected. The longsomeness of service abridged. Church songs, and music moderated to better edification. That the Lord's day be not profaned: the rest upon holy-days not so strictly urged. That there may be an uniformity of doctrine prescribed. No popish opinion to be any more taught or defended: no ministers charged to teach their people to bow at the name of Jesus. That the canonical scriptures only be read in the church.

II. *Concerning church ministers*:—That none hereafter be admitted into the ministry but able and sufficient men, and those to preach diligently, and especially upon the Lord's day. That such as be already entered and cannot preach may either be removed and some charitable course taken with them for their relief, or else to be forced, according to the value of their livings, to maintain preachers. That non-residency be not permitted. That King Edward's statute for the lawfulness of ministers' marriage be revived. That ministers be not urged to subscribe but according to the law to the Articles of Religion and the King's supremacy only.

III. *For church living and maintenance*:—That bishops leave their commendams, some holding prebends, some parsonages, some vicarages, with their bishoprics. That double-beneficed men be not suffered to hold some two, some three

benefices with cure, and some two, three or four dignities besides. That impropriations annexed to bishoprics and colleges be demised only to the preachers — incumbents for the old rent. That the impropriations of layman's fees may be charged with a sixth or seventh part of the worth, to the maintenance of the preaching minister.

IV. *For church discipline*: — That the discipline and excommunication may be administered according to Christ's own institution, or at least that enormities may be redressed; as, namely, that excommunication come not forth under the name of lay persons, chancellors, officials, etc. That men be not excommunicated for trifles and twelve-penny matters; that none be excommunicated without consent of his pastor. That the officers be not suffered to extort unreasonable fees. That none having jurisdiction or registers' places put out the same to farm. That divers popish canons (as for restraint of marriage at certain times) be reversed. That the longsomeness of suits in ecclesiastical courts, which hang sometimes two, three, four, five, six or seven years, may be restrained. That the oath *ex officio*, whereby men are forced to accuse themselves, be more sparingly used. That licences for marriage without banns asked be more cautiously granted.

These, with such other abuses yet remaining and practised in the Church of England, we are able to show not to be agreeable to the Scriptures, if it shall please your Highness further to hear us, or more at large by writing to be informed, or by conference among the learned to be resolved. And yet we doubt not but that without any further process your Majesty of whose Christian judgment we have received so good a taste already is able of yourself to judge of the equity of this cause. God, we trust, hath appointed your Highness our physician to heal these diseases. And we say with Mordecai to Hester, "Who knoweth whether you are come to the kingdom for such a time?" Thus your Majesty shall do that which we are persuaded shall be acceptable to God, honourable to your Majesty in all succeeding ages, profitable to his church, which shall be thereby increased, comfortable to your ministers, who shall be no more suspended, silenced, disgraced, imprisoned for men's traditions, and prejudicial to none but to those that seek their own quiet, credit and profit in the world. Thus with all dutiful submission referring ourselves to your Majesty's pleasure for your gracious answer as God shall direct

you, we most humbly recommend your Highness to the Divine Majesty, whom we beseech for Christ his sake to dispose your royal heart to do herein what shall be to his glory, the good of his church, and your endless comfort.

Your Majesty's most humble subjects, the ministers of the gospel, that desire, not a disorderly innovation, but a due and godly reformation.

(The Church History of Britain, from the Birth of Jesus Christ until the year 1629, ed. T. Fuller, 3rd Ed., Lond. 1842, vol. III, p.193.)

152. Levying a Feudal Aid

(1612)

Fœdera, Rymer

Even in the seventeenth century, the feudal dues continued to be an important source of the royal revenue, and so continued until abolished in 1660 by the statute of 12 Car. II, c. 24. The directions, given below, for the levying of an aid in 1612 should be compared with those given in the reign of Richard I. (No. 65.)

Whereas our eldest daughter Elizabeth hath long since accomplished the age of seven years, by reason whereof there is due unto us by the laws and statutes of this our realm of England reasonable aid to be had and levied of all our immediate tenants by knight's service and in soccage for her marriage: These are therefore to will and require you our Chancellor to cause to be made and sealed under our great seal of England as well several commissions to be directed unto all the counties of this our said realm according to the form of a draught of a commission for that purpose to these presents annexed, as also several commissions for the Cinque Ports and for compounding with all the Lords spiritual and temporal of this our realm and with the masters...and other the heads of houses, halls and colleges of our Universities of Oxford and Cambridge, according to several draughts hereunto likewise annexed, changing such things therein as are to be changed, and to direct them to such commissioners as you with the Lord Privy Seal and our Chancellor of our Exchequer shall name and appoint, returnable at the days of the several draughts prefixed, and the same several commissions to renew to the same commissioners or any others according to your directions as often as need shall require, and also to name and choose any two of the said commissioners in every county respectively to be collectors for the same aid; and these shall be your sufficient warrant in that behalf.

Given under our signet at Woodstock the 30th day of August in the 10th year of our reign of England, France and Ireland, and of Scotland the six and fortieth.

Per ipsum Regem

(*Fœdera*, Rymer, vol. XVI, p. 724.)

153. Benevolences

(1622)

Rushworth's Collections
Cardwell Documents

Edward IV., in 1473, was the first king to mask the forced loans exacted by several of his predecessors and successors as "Benevolences." After his time, though the kings continued to extort loans, or more properly tribute, from their subjects without legal warrant, the extortions were to be "free gifts." The practice was declared illegal by Richard II. in the first year of his reign, yet in the second it was made use of. The extortion of Benevolences was practised by the Tudors, and under the Stuarts it became a crying abuse, which the express prohibition contained in the Petition of Right did not overcome, for in 1661 a limited Benevolence was authorized by Parliament. To this, however, was attached the condition that in future the exaction of these Benevolences was to be under the absolute control of Parliament instead of the king. The following letters are extremely illuminating: (A) the form that was sent to the Justices of the Courts at Westminster and to the Barons of the Exchequer as well as to civil officials was with the addition of (B) sent by the Archbishop of Canterbury and the greater ecclesiastics generally on receipt of letters from the king requiring contributions from ecclesiastics.

(A) . . . What endeavours his Majesty hath used by treaty and by all fair and amiable ways to recover the patrimony of his children in Germany, now for the most part withholden from them by force, is not unknown to all his loving subjects, since his Majesty was pleased to communicate to them in Parliament his whole proceedings in that business: of which treaty, being of late frustrate, he was enforced to take other resolutions, namely, to recover that by the sword which by other means he saw no likelihood to compass. For which purpose it was expected by his Majesty that his people in Parliament would (in a cause so nearly concerning his and his children's interest) have cheerfully contributed thereunto. But the same unfortunately failing, his Majesty is constrained, in a case of so great necessity, to try the dutiful affections of his loving subjects in another way, as his predecessors have done in former times, by propounding unto them a voluntary contribution. And therefore, as yourselves have already given a liberal and worthy example (which his Majesty doth take in very gracious part), so his pleasure is,

and we do accordingly hereby authorize and require your lordships, as well to countenance and assist the service by your best means, in your next circuits, in the several counties where you hold general assizes, as also now presently with all convenient expedition to call before you all the officers and attorneys belonging to any his Majesty's courts of justice, and also all such others of the houses and societies of court or that otherwise have dependence upon the law, as are meet to be treated withal in this kind and have not already contributed; and to move them to join willingly in this contribution in some good measure, answerable to that yourselves and others have done before us, according to their means and fortunes; wherein his Majesty doubteth not, but beside the interest of his children and his own crown and dignity, the religion professed by his Majesty and happily flourishing under him within this kingdom (having a great part in the success of this business) will be a special motive to incite and persuade them thereunto. Nevertheless, if any person shall, out of obstinacy or disaffection, refuse to contribute herein proportionably to their estates and means, you are to certify their names unto this board.

And so recommending this service to your best care and endeavour, and praying you to return unto us notes of the names of such as shall contribute and of the sums offered by them, we bid [etc.].

*(Historical Collections of Private Passages of State, etc.,
ed. J. Rushworth, 1682, I, p. 60.)*

(B) . . . Your Lordship by these letters may see how far it concerneth his Majesty in honour and the realm in safety, that the patrimony of the King's children should be recovered again by force of war, since it cannot be obtained by treaty. . . . We therefore, who upon the receipt of these his Majesty's letters have met together and duly considered what was most convenient to be done, have resolved that 3s. 10d. in the pound is as little as we can possibly offer towards so great an enterprise, yet hoping that such as be of ability will exceed the same. You shall therefore do well by all forcible reason, drawn from the defence of religion and justice, to incite all your clergy . . . as also the lecturers and licensed schoolmasters within your diocese, that with all readiness they do contribute towards this noble action. And whereas there be divers commendataries, dignitaries, prebendaries and double-beneficed men that have livings in several dioce-

ses, we hold it fit that for every one of these within your Lordship's diocese the contribution be rateable, so that the monies in such sort to be given may be brought to London by the 10th day of March next, to be delivered to the hands of such receivers as for that purpose shall be appointed. And to the end that true notice may be taken of such as are best disposed to this so good a service, we expect that your Lordship send up to the Archbishop of Canterbury the several sums and names of all those who contribute; and lastly ... that you cause the preachers within your diocese in a grave and discreet fashion to excite the people that, when occasion shall serve, they do extend their liberalities to so Christian and worthy an enterprise: Wherein not doubting but your lordship will use all your best, prudent, and most careful endeavours, we leave you to the Almighty. From Lambeth, 21. Januarii MDCXXI. Juxta etc.

G. Cant.

Jo. Lincoln, C.S.

[and twelve other bishops].

(Cardwell, *Docum. Annals*, Oxford, 1844, vol. II, p. 196.)

154. James I. and the Commons

Parliamentary History

The policy of James I. was the reverse of conciliatory in the contest with Parliament upon its constitutional rights. The Commons' side of the question is set forth in the protest recorded on December 18, the day of the forced adjournment, in the Journal Book. The King struck out the record with his own hand, and the memorial which is given by the historian shows the royal opinion on the matter immediately in question, as well as hinting James' general conceptions of constitutional rule. The incident forms a fitting introduction to the stormy rule of Charles I.

The Commons now assembled in Parliament, being justly occasioned thereunto concerning sundry Liberties, Franchises, and Privileges of Parliament, amongst others here mentioned, do make this Protestation following, That the Liberties, Franchises, Privileges, and Jurisdictions of Parliament, are the ancient and undoubted Birth-right and Inheritance of the Subjects of England; and that the arduous and urgent Affairs concerning the King, State, and Defence of the Realm, and of the Church of England; and the Maintenance and Making of Laws, and Redress of Mischiefs and Grievances which daily happen within this Realm, are proper Subjects and Matter of Counsel and Debate in Parliament;

and that in the handling and proceeding of those Businesses, every Member of the House of Parliament hath, and of Right, ought to have Freedom of Speech, to propound, treat, reason, and bring to Conclusion the same: And that the Commons in Parliament have like Liberty and Freedom to treat of these Matters in such Order, as in their Judgments shall seem fittest: And that every Member of the said House hath like Freedom from all Impeachment, Imprisonment, and Molestation (other than by Censure of the House itself) for or concerning any speaking, reasoning, or declaring any Matter or Matters touching the Parliament, or Parliament-Business: And that if any of the said Members be complained of, and questioned for any thing done or said in Parliament, the same is to be shewed to the King by the Advice and Assent of all the Commons assembled in Parliament, before the King give Credence to any private Information.

This Protestation was made and recorded in the Journal-Book of the Commons, December the 18th, the Day of Adjournment. But how the King took it, will best appear, by his sending for the Journal-Book of the Commons, in Council, and striking out the Protestation *with his own hand*; and by the following Memorial, which was published soon after, as is seen by the Date of it . . .

Whitehall, December 30, 1621.

“His Most Excellent Majesty coming this Day to the Council, the Prince his Highness, and all the Lords and others of his Majesty's Privy-Council sitting about him, and all the Judges then in London, which were six in Number, there attending upon his Majesty; the Clerk of the Commons House of Parliament was called for, and commanded to produce his Journal-Book, wherein was noted, the Entries made of most Passages that were in the Commons House of Parliament; and amongst other Things there was written down the Form of a Protestation concerning sundry Liberties, Privileges, and Franchises of Parliament; with which Form of Protestation his Majesty was justly offended. Nevertheless his Majesty, in a most gracious Manner, there expressed, That he never meant to deny that House of Commons any lawful Privileges that ever they had enjoyed; but whatsoever Privileges or Liberties they had by any Law or Statute, the same should be inviolably preserved unto them; and whatsoever Privileges they enjoyed by Custom,

or uncontrouled and lawful Precedent, his Majesty would be careful to preserve. But this Protestation of the Commons House, so contrived and carried as it was, his Majesty thought fit to be razed out of all Memorials, and utterly to be annihilated; both in respect of the Manner by which it was gained, and the Matter therein contained. For the Manner of getting it, first, in respect of the Time: For after such Time as his Majesty, out of princely Grace, as to take away all Mistakings, had directed his Letters to Secretary Calvert, dated at Royston, 16 Decembris, and therein had so explained himself, in the Point of maintaining the Privileges of the House of Commons, as that most of the said House rested fully satisfied, and freed from any Scruple of having their Liberties impeached: And after that, by his Majesty's Letters, directed to the Speaker, dated 18 December, being Tuesday, his Majesty, at the humble Suit of the House of Commons, condescended to make this Meeting a Session before Christmas, and for the Purpose had assigned Saturday following: Now, upon this very Tuesday, and while the Messengers from the House of Commons were with his Majesty at Theobalds, to return Thanks unto his Majesty, and therewith an Excuse from them not to make it a Session, in respect of the Strait of Time whereunto they were driven; which Deferment his Majesty admitted of at their Desires, and thereupon gave Order for the Adjournment of the Parliament until the 8th of February next, which was the first Day formerly appointed by his Majesty for the meeting together of the Parliament: And whilst their Messengers were with his Majesty, and had received a gracious Answer to return unto their House; even that Afternoon, a Committee was procured to be made for taking their Liberties into Consideration: And this Afternoon a Protestation was made (to whom, appears not) concerning their Liberties, and at six o'Clock at Night, by Candle-light, the same Protestation was brought into the House by the Committee; and at that Time of Night it was called upon to be put to the Question, there not being the third Part of the House then present; whereas in all Matters of Weight, their usual Custom is, to put nothing of Importance to the Question, till the House be full: And at this Time many of them that were present, expected that the Question would have been deferred to another Day, and a fuller House; and some then present stood up to have spoken to it, but could not be seen or heard in that Darkness and Confusion. Now for the Matter of the Pro-

testation, it is penned in such ambiguous and general Words, as may serve for future Times to invade most of the Rights and Prerogatives annexed to the Imperial Crown; the Claim of some Privileges being grounded upon the Words of the Writ for assembling the Parliament, wherein some Words, viz. *Arduis regni*, are cunningly mentioned, but the Word *quibusdam*, which restraineth the Generality to such particular Cases, as his Majesty pleaseth to consult with them upon, is purposely omitted.

These Things considered, his Majesty did, this present Day, in full Assembly of the Council, and in the Presence of the Judges, declare the said Protestation to be invalid, annulled, void, and of no Effect: And did further, *Manu sua propria*; take the said Protestation out of the Journal-Book of the Clerk of the Commons House of Parliament; and commanded an Act of Council to be made thereupon, and this Act to be entered in the Register of Common-Causes.

(*Parliamentary History*, ed. cit., V, p. 512.)

CHAPTER XXI

THE PURITAN REVOLUTION

155. The Petition of Right

(3 CAR. I, c. 1, June 7, 1628)

Statutes of the Realm

In 1628 the position of Charles I. had gone from bad to worse. Rash enterprises, lavish and illegal expenditure, and broken promises of better government had almost produced open rupture between the monarch and his subjects. In his third Parliament matters reached a point in which the Commons felt the strongest action to be necessary. Under the leadership of Wentworth, a Committee of Grievances discussed the illegal methods of the king, and particularly considered the matters of forced loans, imprisonment of subjects who refused to make such loans to the king, the billeting of soldiers on private persons, and punishment by the methods of martial law. The Commons then sought the concurrence of the Lords by means of a petition embodying protest against these grievances. For two months both Houses debated the question of steps to be taken. Aids were granted the king, but no regular Money Bill was passed. This Charles sought to secure, but the Commons refused to be cajoled by blandishments or frightened by threats. The king offered to grant a Confirmation of the Great Charter, such as had often been issued and disregarded by former monarchs. The Commons refused this offer, and under the leadership of Sir Edward Coke they drew up and passed the Petition of Right. Charles made repeated attempts to avoid ratifying it in a legal manner. He was finally compelled to give his assent in due form. The statute, in form of a petition, is one of the five most important constitutional documents of English history.

THE PETITION EXHIBITED TO HIS MAJESTY BY THE LORDS SPIRITUAL AND TEMPORAL, AND COMMONS IN THIS PRESENT PARLIAMENT ASSEMBLED, CONCERNING DIVERS RIGHTS AND LIBERTIES OF THE SUBJECTS, WITH THE KING'S MAJESTY'S ROYAL ANSWER THEREUNTO IN FULL PARLIAMENT

To the King's Most Excellent Majesty.

Humbly show unto our Sovereign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament

assembled, that whereas it is declared and enacted by a statute made in the time of the reign of King Edward the First, commonly called *Statutum de Tallagio non concedendo*, that no tallage or aid shall be laid or levied by the King or his heirs in this realm, without the goodwill and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other the freemen of the commonality of this realm: and by authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted, that from thenceforth no person shall be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided, that none should be charged by any charge or imposition, called a Benevolence, or by such like charge, by which the statutes before-mentioned, and other the good laws and statutes of this realm, your subjects have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in Parliament:

Yet nevertheless, of late divers commissions directed to sundry Commissioners in several counties with instructions have issued, by means whereof your people have been in divers places assembled, and required to lend certain sums of money unto your Majesty, and many of them upon their refusal so to do, have had an oath administered unto them, not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give attendance before your Privy Council, and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted: and divers other charges have been laid and levied upon your people in several counties, by Lords Lieutenants, Deputy Lieutenants, Commissioners for Musters, Justices of Peace and others, by command or direction from your Majesty or your Privy Council, against the laws and free customs of this realm:

And where also by the statute called, 'The Great Charter of the Liberties of England,' it is declared and enacted, that no freeman may be taken or imprisoned or be disseised of his freeholds or liberties, or his free customs, or be outlawed or exiled; or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land:

And in the eight and twentieth year of the reign of King

Edward the Third, it was declared and enacted by authority of Parliament, that no man of what estate or condition that he be, should be put out of his land or tenements, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of law:

Nevertheless, against the tenor of the said statutes, and other the good laws and statutes of your realm, to that end provided, divers of your subjects have of late been imprisoned without any cause showed, and when for their deliverance they were brought before your Justices, by your Majesty's writs of Habeas Corpus, there to undergo and receive as the Court should order, and their keepers commanded to certify the causes of their detainer; no cause was certified, but that they were detained by your Majesty's special command, signified by the Lords of your Privy Council, and yet were returned back to several prisons, without being charged with anything to which they might make answer according to the law:

And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn, against the laws and customs of this realm, and to the great grievance and vexation of the people:

And whereas also by authority of Parliament, in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted, that no man shall be forejudged of life or limb against the form of the Great Charter, and the law of the land: and by the said Great Charter and other the laws and statutes of this your realm, no man ought to be adjudged to death; but by the laws established in this your realm, either by the customs of the same realm or by Acts of Parliament: and whereas no offender of what kind soever is exempted from the proceedings to be used, and punishments to be inflicted by the laws and statutes of this your realm: nevertheless of late time divers commissions under your Majesty's Great Seal have issued forth, by which certain persons have been assigned and appointed Commissioners with power and authority to proceed within the land according to the justice of martial law against such soldiers or mariners, or other dissolute persons joining with them, as should commit any murder, robbery, felony, mutiny, or other outrage or misdemeanour whatsoever, and by such summary course and order, as is agreeable to martial law, and is used in armies

in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death, according to the law martial:

By pretext whereof, some of your Majesty's subjects have been by some of the said Commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might, and by no other ought to have been, judged and executed:

And also sundry grievous offenders by colour thereof, claiming an exemption, have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused, or forborne to proceed against such offenders according to the same laws and statutes, upon pretence that the said offenders were punishable only by martial law, and by authority of such commissions as aforesaid, which commissions, and all other of like nature, are wholly and directly contrary to the said laws and statutes of this your realm:

They do therefore humbly pray your Most Excellent Majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament; and that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof; and that no freeman, in any such manner as is before-mentioned, be imprisoned or detained; and that your Majesty will be pleased to remove the said soldiers and mariners, and that your people may not be so burdened in time to come; and that the aforesaid commissions for proceeding by martial law, may be revoked and annulled; and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever, to be executed as aforesaid, lest by colour of them any of your Majesty's subjects be destroyed or put to death, contrary to the laws and franchise of the land.

All which they most humbly pray of your Most Excellent Majesty, as their rights and liberties according to the laws and statutes of this realm: and that your Majesty would also vouchsafe to declare, that the awards, doings, and proceedings to the prejudice of your people, in any of the premises, shall not be drawn hereafter into consequence or example: and that your Majesty would be also graciously

pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you, according to the laws and statutes of this realm, as they tender the honour of your Majesty, and the prosperity of this kingdom.

(Ed. from *Statutes of the Realm*, V, 23.)

[The King's first answer, June 2, 1628:

The King willeth that right be done according to the laws and customs of the realm; and that the statutes be put in due execution, that his subjects may have no cause to complain of any wrong or oppressions, contrary to their just rights and liberties, to the preservation whereof he holds himself as well obliged as of his prerogative.

The King's second answer, June 7, 1628:

Soit droit fait comme il est désiré.]

156. The First Writ of Ship-Money

(Oct. 20, 1634)

Rushworth

The Petition of Right did not put an end to the illegal extortions of Charles I. Among other expedients, he ordained a revival of the old law which compelled coast cities and counties to send ships at the call of the king. But the demand of Charles, in the hands of Lord Keeper Finch, extended to inland cities as well. As these could send no ships, and as the lesser maritime towns could not send vessels of the size required by the king, provision was made that in these cases a money equivalent was to be rendered. In October, 1664, the first writs of ship-money — of which an example is given below — were issued. There was some opposition, but the expedient proved successful until successive writs in time of peace convinced the people that the king was using the money at the royal pleasure instead of for the defense of the nation. John Hampden headed the opposition which then became general, and the matter was taken to the Court of Exchequer, where the venal judges gave judgment for the king. The royal victory weakened the power of the crown as it exposed the subserviency of the Bench to the wishes of the Crown.

To the Mayor, commonalty, and citizens of our city of London, and to the sheriffs of the same city, and good men in the said city and in the liberties, and members of the same, greeting: Because we are given to understand that certain thieves, pirates, and robbers of the sea, as well Turks, enemies of the Christian name, as others, being gathered together, wickedly taking by force and spoiling the ships, and goods, and merchandises, not only of our subjects, but also the sub-

jects of our friends in the sea, which hath been accustomed anciently to be defended by the English nation, and the same, at their pleasure, have carried away, delivering the men in the same into miserable captivity: and forasmuch as we see them daily preparing all manner of shipping farther to molest our merchants, and to grieve the kingdom, unless remedy be not sooner applied, and their endeavours be not more manly met withal; also the dangers considered which, on every side, in these times of war do hang over our heads, that it behoveth us and our subjects to hasten the defence of the sea and kingdom with all expedition or speed that we can; we willing by the help of God chiefly to provide for the defence of the kingdom, safeguard of the sea, security of our subjects, safe conduct of ships and merchandises to our kingdom of England coming, and from the same kingdom to foreign parts passing; forasmuch as we, and our progenitors, Kings of England, have been always heretofore masters of the aforesaid sea, and it would be very irksome unto us if that princely honour in our times should be lost or in any thing diminished. And although that charge of defence which concerneth all men ought to be supported by all, as by the laws and customs of the kingdom of England hath been accustomed to be done: notwithstanding we considering that you constituted in the sea-coasts, to whom by sea as well great dangers are imminent, and who by the same do get more plentiful gains for the defence of the sea, and conservation of our princely honour in that behalf, according to the duty of your allegiance against such attempts, are chiefly bound to set to your helping hand; we command firmly, enjoining you the aforesaid Mayor, commonalty and citizens, and sheriffs of the said city, and the good men in the same city and in the liberties, and members of the same, in the faith and allegiance wherein you are bound unto us, and as ye do love us and our honour, and under the forfeiture of all which ye can forfeit to us, that ye cause to be prepared and brought to the port of Portsmouth, before the first day of March now next ensuing, one ship of war of the burden of nine hundred tons, with three hundred and fifty men at the least, as well expert masters, as very able and skilful mariners; one other ship of war of the burden of eight hundred tons, with two hundred and sixty men at the least, as well skilful masters, as very able and expert mariners: four other ships of war, every of them of the burden of five hundrdtons, and every of them with two hundred men at

the least, as well expert masters, as very able and skilful mariners: and one other ship of war of the burden of three hundred tons, with a hundred and fifty men, as well expert masters, as very able and skilful mariners: and also every of the said ships with ordnance, as well greater as lesser, gunpowder, and spears and weapons, and other necessary arms sufficient for war, and with double tackling, and with victuals, until the said first of March, competent for so many men; and from that time, for twenty-six weeks, at your charges, as well in victuals as men's wages, and other things necessary for war, during that time, upon defence of the sea in our service, in command of the admiral of the sea, to whom we shall commit the custody of the sea, before the aforesaid first day of March, and as he, on our behalf, shall command them to continue; so that they may be there the same day, at the farthest, to go from thence with our ships, and the ships of other faithful subjects, for the safeguard of the sea, and defence of you and yours, and repulse and vanquishing of whomsoever busying themselves to molest or trouble upon the sea our merchants, and other subjects, and faithful people coming into our dominions for cause of merchandise, or from thence returning to their own countries. Also we have assigned you, the aforesaid Mayor and Aldermen of the city aforesaid, or any thirteen, or more of you, within thirty days after the receipt of this writ, to assess all men in the said city, and in the liberties, and members of the same, and the landholders in the same, not having a ship, or any part of the aforesaid ships, nor serving in the same, to contribute to the expenses, about the necessary provision of the premises; and to assess and lay upon the aforesaid city, with the liberties and members thereof, viz. upon every of them according to their estate and substances, and the portion assessed upon them; and to nominate and appoint collectors in this behalf. Also we have assigned you, the aforesaid Mayor, and also the Sheriffs of the city aforesaid, to levy the portions so as aforesaid assessed upon the aforesaid men and landholders, and every of them in the aforesaid city, with the liberties and members of the same, by distress and other due means; and to commit to prison all those whom you shall find rebellious and contrary in the premises, there to remain until we shall give further order for their delivery. And moreover we command you, that about the premises you diligently attend, and do, and execute those things with effect, upon peril that shall fall thereon: but we will not, that

under colour of our aforesaid command, more should be levied of the said men than shall suffice for the necessary expenses of the premises; or that any who have had levied money for contribution to raise the aforesaid charges, should by him detain the same, or any part thereof; or should presume, by any manner of colour, to appropriate the same to other uses; willing, that if more than may be sufficient shall be collected, the same may be paid out among the contributors, for the rate of the part to them belonging.

Witness myself, at Westminster the twentieth day of October, in the 10th year of our reign.

(*Rushworth's Collections*, ed. cit., II, 257.)

157. Ship-Money declared Illegal

(17 CAR. I, c. 14, 1641.)

Statutes of the Realm

The injustice of the practice of levying ship-money and the prostitution of justice to be an instrument of the king's will had never ceased to be a source of irritation and complaint. To this discontent Charles was indifferent, but the people watched and worked for the opportunity to right the wrong. In the Long Parliament the act given below was passed. It is important not only because it abolished one illegal tax and annulled the judgment of the Exchequer Court against Hampden as contrary to the laws and statutes of the realm, the right of property, the liberty of the subject, and the Petition of Right, but also because it completed the long line of statutes that deprived the Crown of the power of arbitrary taxation.

AN ACT FOR THE DECLARING UNLAWFUL AND VOID THE LATE PROCEEDINGS TOUCHING SHIP-MONEY, AND FOR THE VACATING OF ALL RECORDS AND PROCESSES CONCERNING THE SAME

Whereas divers writs of late time issued under the Great Seal of England, commonly called Ship-writs, for the charging of the Ports, Towns, Cities, Boroughs, and Counties of this realm respectively, to provide and furnish certain ships for His Majesty's service; and whereas upon the execution of the same writs and returns of certioraries thereupon made, and the sending the name by *Mittimus* into the Court of Exchequer, process hath been thence made against sundry persons pretended to be charged by way of contribution for the making up of certain sums assessed for the providing of the said ships; and in especial in Easter Term in the thirteenth year of the reign of our Sovereign Lord the King that

now is, a Writ of *Scire facias* was awarded out of the Court of Exchequer to the then Sheriff of Buckinghamshire against John Hampden, Esquire, to appear and show cause why he should not be charged with a certain sum so assessed upon him: upon whose appearance and demurrer to the proceedings therein the Barons of the Exchequer adjourned the same case into the Exchequer Chamber, where it was solemnly argued divers days; and at length it was there agreed by the greater part of all the Justices of the Courts of King's Bench and Common Pleas, and of the Barons of the Exchequer there assembled, that the said John Hampden should be charged with the said sum so as aforesaid assessed on him: The main grounds and reasons of the said Justices and Barons, which so agreed, being, that when the good and safety of the kingdom in general is concerned, and the whole kingdom in danger, the King might by writ under the Great Seal of England command all the subjects of this his kingdom at their charge to provide and furnish such number of ships with men, victuals and munition, and for such time as the King should think fit for the defence and safeguard of the kingdom from such danger and peril, and that by law the King might compel the doing thereof in case of refusal or refractoriness, and that the King is the sole judge both of the danger, and when and how the same is to be prevented and avoided; according to which grounds and reasons all the Justices of the said Courts of King's Bench and Common Pleas, and the said Barons of the Exchequer, having been formerly consulted with by His Majesty's command, had set their hands to an extrajudicial opinion expressed to the same purpose, which opinion with their names thereunto was also by His Majesty's command enrolled in the Courts of Chancery, King's Bench, Common Pleas and Exchequer, and likewise entered among the remembrances of the Court of Star Chamber, and according to the said agreement of the said Justices and Barons, judgment was given by the Barons of the Exchequer that the said John Hampden should be charged with the said sum so assessed on him: and, whereas some other actions and process depend, and have depended in the said Court of Exchequer and in some other Courts, against other persons for the like kind of charge grounded upon the said writs commonly called Ship-writs; all which writs and proceedings as aforesaid were utterly against the law of the land: be it therefore declared and enacted by the King's Most Excellent Majesty and the Lords and the Com-

mons in this present Parliament assembled, and by the authority of the same, that the said charge imposed upon the subject for the providing and furnishing of ships, commonly called Ship-money, and the said extrajudicial opinion of the said Justices and Barons and the said writs, and every of them, and the said agreement or opinion of the greater part of the said Justices and Barons, and the said judgment given against the said John Hampden, were and are contrary to and against the laws and statutes of this realm, the right of property, the liberty of the subjects, former resolutions in Parliament, and the Petition of Right made in the third year of the reign of His Majesty that now is.

And it is further declared and enacted by the authority aforesaid, that all and every the particulars prayed or desired in the said Petition of Right shall from henceforth be put in execution accordingly, and shall be firmly and strictly holden and observed as in the same Petition they are prayed and expressed; and that all and every the records and remembrances of all and every the judgment, enrolments, entry, and proceedings as aforesaid, and all and every the proceedings whatsoever, upon or by pretext or colour of any of the said writs commonly called Ship-writs, and all and every the dependents on any of them, shall be deemed and adjudged, to all intents, constructions and purposes, to be utterly void and disannulled; and that all and every the said judgment, enrolments, entries, proceedings and dependents of what kind soever, shall be vacated and cancelled in such manner and form as records use to be that are vacated.

(Ed. from *Statutes of the Realm*, V, 126.)

158. Charles I. and Strafford

(1641)

Letters and Dispatches.

The letter of Charles to Strafford, and that of the monarch to Parliament in behalf of the earl, with the subjoined account of the interview of the messenger with Charles, conclusively prove the weakness and timidity of the king. The letters are of the greatest interest as being unimpeachable evidence of the faithlessness of the master to his chosen servant, whom he had promised at all hazards to protect.

CHARLES I. TO THE EARL OF STRAFFORD

Strafford,

The misfortune that is fallen upon you by the strange mistaking and conjuncture of these times, being such, that

I must lay by the thought of employing you hereafter in my affairs; yet I cannot satisfy myself in honour or conscience without assuring you (now in the midst of your troubles), that upon the word of a king you shall not suffer in life, honour or fortune. This is but justice, and therefore a very mean reward from a master to so faithful and able a servant as you have showed yourself to be; yet it is as much as I conceive the present times will permit, though none shall hinder me from being

Your constant, faithful friend,

Charles R.

Whitehall, April 23, 1641.

(Ed. from Earl of Strafford's Letters and Dispatches, Lond., 1739, II, p. 416.)

158a. Charles I. to the House of Lords, in Behalf of the
Earl of Strafford

My lords,

I did yesterday satisfy the justice of the kingdom, by passing of the bill of attainder against the earl of Strafford; but mercy being as inherent and inseparable to a king as justice, I desire at this time in some measure, to show that likewise, by suffering that unfortunate man to fulfil the natural course of his life in a close imprisonment, yet so that, if ever he make the least offer to escape, or offer, directly or indirectly, to meddle with any sort of public business, especially with me, either by message or letter, it shall cost him his life, without further process.

This, if it may be done without the discontent of my people, will be an unspeakable contentment to me; to which end, as in the first place, I by this letter do earnestly desire your approbation; and to endear it more, have chosen him to carry it, that of all your house is most dear to me; so I desire, that by a conference you will endeavour to give the House of Commons contentment likewise; assuring you, that the exercise of mercy is no more pleasing to me than to see both Houses of Parliament content, for my sake, that I should moderate the severity of the law in so important a case. I will not say, that your complying with me in this my intended mercy, shall make me more willing, but certainly it will make me more cheerful in granting your just grievances; but, if no less than his life can satisfy my people, I must say, *Fiat justitia.*

Thus again earnestly recommending the consideration of my intentions to you, I rest

Your unalterable and affectionate friend,

Charles R.

Whitehall, 10th May, 1641.

P. S.—If he must die, it were charity to reprieve him till Saturday.

(*Journals of the House of Lords*, May 11, 1641.)
In Kennett, III, 117.

158b. Parliament considers the King's Letter

(The following record of the proceedings upon receipt of the above letter, taken from the Parliament Journals, throws further light upon the attitude of Charles.)

This letter, all written with the king's own hand, the peers, this day received in Parliament, delivered by the hand of the prince. It was twice read in the House, and, after serious and sad consideration, the House resolved presently to send twelve of the peers, messengers to the king: "Humbly to signify, that neither of the intentions expressed in the letter could, with duty to them, or without evident danger to himself, his dearest consort the queen, and all the young princes their children, possibly be advised."

Which being delivered, and more expressions offered, his majesty suffered no more words to come from them, but, out of the fulness of his heart, to the observance of justice, and for contentment of his people, told them, that what he intended by his letter was with an "If," "If it may be done without discontentment to his people. If that cannot be, I say again the same that I wrote, *Fiat Justitia*; my other intention, proceeding out of charity, for a few days' respite, was upon certain information that his estate was so distracted, that it necessarily required some few days for settlement thereof."

Whereunto the lords answered, "Their purpose was to be suitors to his majesty, for favour to be shown to his innocent children; and, if he himself had made any provision for them, that the same might hold."

This was well-liking to his majesty, who thereupon parted from the lords. At his majesty's parting, the peers offered up into his hands the letter itself, which he had sent; but he pleased to say: "My lords, what I have written to you I shall be content it be registered by you in your House; in it you see my mind. I know you will use it to my honour."

(*Journals of the House of Lords*, May 11, 1641.)

159. A Summary of Grievances

(1642)

Contemporary Tract

In the reign of Charles I. the discontent which had been growing since the time of Henry VIII. reached its culmination. The popular grievances found voice in many pamphlets and tracts; and from this political literature we have chosen, as particularly suggestive, the following illustration:

CERTAIN QUERIES OF THINGS DONE SINCE KING CHARLES
HIS REIGN BEGAN

1. When our good King James his death was by one of his physicians tendered to the King and Parliament, to be examined, why the Parliament was so soon dissolved?

2. When in the first and succeeding Parliaments, they began to fall upon Reformation in Kirk and State, why still were the Parliaments dissolved?

3. Why, presently after the Petition of Right in England was signed, it was violated and nulled by imprisonment of sundry members of Parliament, which cost some of them their lives?

4. Why at length came Parliaments to be so out of date and request, as that a proclamation was published inhibiting the least mention of ever having any more Parliaments in England?

5. Why against the Petition of Right was tonnage and poundage extorted?

6. Why against the Petition of Right was ship-money levied?

7. Why against the Petition of Right was coat-and-conduct money imposed?

8. Why against the Petition of Right was such an infinite number of monopolies to the drainage and exhausting of the subjects, granted?

9. Why was it attempted to make all England a forest, and so to make the people so many deer for Nimrods to hunt?

10. Who is the author of all the evils and grievances in the kingdom, and so the great troubler of Israel, seeing so many malefactors, and delinquents, and instruments of cruelty, are authorized and protected as innocents?

11. Who aided the French King with eight ships, by means whereof the Protestants in Rochelle were most miserably destroyed, and all the rest in France left to the mercy of

Papists, the more easily to exercise their massacres upon them?

12. How, or by whom was it, that we poor harmless, yet much oppressed Scots, were proclaimed rebels, when we only fought for right and justice?

13. By whose authority, and for what end was it, that that more than heathenish book for sports, to profane the Lord's day, was published in every kirk in England?

14. By whose countenance was it, that so many novations have taken place, so much idolatry and superstition hath overspread England, so many notorious papist books in English of late days printed with their high dedications, so much restraint of preaching, so grievous persecuting of preachers even unto blood and banishment, with all ways and crafts to root out the Gospel, and to let up popery everywhere, and so to put the prince of the apostles (Peter, or the pope) in possession of that noble and long flourishing island?

15. Who hath murdered so many innocents in Ireland by the long retarding of sending succors in due time, by means whereof so many thousands, and they Protestants, might have been preserved from such horrid and bloody butcheries? Or how came it to pass (then when the plot among us in Scotland for murdering some of our prime nobles in the King's chamber, should have taken place) that the rebellion in Ireland began to break forth just about the same time? Such a sympathy and harmony (it seems) there was between the two.

16. What was the end of plotting, the coming up of the York army towards the City and Parliament?

17. What was the end of the King's going to the Parliament with his armed troops of furious Cavaliers, and their manner of carriage there?

18. What was the end of turning out our faithful brother Sir William Belphore from being Lieutenant of the Tower, and placing in his room that desperate Cavalier Lunsford?

19. By what authority was it, that the captains that were by the Parliament sent into Ireland to suppress the rebels there, came into England again to help the Malignant party against the Parliament?

20. Whether the present taking of Portsmouth by the King, through the infamous perfidiousness of Goring, may not stand the Malignants in as good stead against the Parliament and people as Hull, considering that Portsmouth is nearer both to France and Spain?

21. Whether the King's Commission of Array, though it may seem to have in general some countenance from the law, yet can possibly be imagined to have any law at this time, when the King stands out against his Parliaments, to overthrow their militia, which is to no other end but to preserve both King and kingdom from imminent ruin; considering that no laws of the kingdom are destructive thereof, but preservative only?

22. Whether the gentry of England, who now appear for the King against the Parliament, and so against the whole kingdom, be true bred Englishmen, and gentlemen, or no: or if true bred, whether they be not so far degenerate as to become enemies of God and their country, and with Esau to sell their birthright of laws and liberties for a mess of broth, and so to purchase to their house a perpetual slavery, by shedding the blood of their brethren, which they prize at so vile and ignoble a rate?

23. Whether the displacing of the good old justices ail over England, and setting up of new, being of the Malignant party and enemies of the kingdom, do not hasten the ruin thereof, while they labor to root out the Gospel, and all goodness, to destroy the Parliament and all good laws, and to countenance and maintain the most profane in the land, who are ready everywhere to make war against the Gospel, and all the faithful preachers thereof?

24. Whether the wounding of religion by reproachful names, as calling all the true professors thereof Roundheads and the like, be not a sleight of Jesuits to set the Protestants together by the ears, and their swords in one another's sides, that so they may all perish together?

25. Whether it be not the wisdom of all true-hearted English, and such as account it their honor to be called and be true Protestants, and namely such as are enemies to papistry, however they may differ in opinion in matter of religion, according to the different degrees of light in their souls, yet not to differ in their affections one to another, but to be fast united in the bond of charity, and combined in a firm resolution for the rooting out of all papery, according to the late protestation, which no true Protestant, and such as it not papishly affected, nor a lover of Antichrist, and so a hater of his own soul and salvation, will ever refuse to take, profess, and maintain.

26. Why, notwithstanding so many protestations, and declarations to the contrary, are papish priests and Jesuits,

after they are justly condemned, according to the law, for traitors, reprieved, time after time, so as no justice can be executed on them?

27. Whether so many proclamations, declarations, protestations or remonstrances, as are published in the King's name, being so full of manifest and palpable falshoods, and shameless untruths, whereby the true meaning people are most pitifully abused, seduced, deluded and blindfolded, to the undoing of themselves and of their dear country, by betraying it and themselves into the hands of most wicked tyrants and cut-throats, and open enemies of both God and men, ought not to be laid upon the King himself, as the supreme author of them, seeing he is pleased to be the owner and maintainer of them? And whether, in particular, it be not a meer mockery to send forth proclamations against papist-recusants, inhibiting and forbidding them upon pain of high displeasure to approach the King's person, court or army, whenas, for all this, most of them that be of the King's cavalry, and of his commanders, are papists, having nothing to excuse them from being recusants, but merely the pope's dispensation for going to kirk; and all men know by experience, that Kirk-Papists are the worst and most dangerous?

28. Whether the setting-up of the King's standard against the Parliament and the best subjects of the kingdom be not an actual unkinging of him, as whereby he professeth an open hostility against that kingdom and State, which at his coronation he swore to protect; and as now, intending and endeavoring with might and main to come in as a conqueror, and so to set up a lawless and tyranical government over his land, and so to make good what he hath promised, and (in his letter to the Pope of Rome lately published in English, as aforesaid) solemnly protested and vowed.

These queries and questions being seriously and impartially satisfied and foyled, it cannot but most evidently appear to every intelligent heart that will not be wilfully blind, what is the aim and end of the Malignant party now in England, from the head to the foot of them; and how much it concerns them all who love their religion, laws, and liberties to look about them, and timely to endeavor (by God's assistance) to prevent their great and imminent dangers.

FINIS

Septem. 8, 1642.

(From *King James, His Judgment of a King and of a Tyrant*,
Political tract, published Lond., 1642.)

160. The Charge against the King

Rushworth's Collections

The deeds which cost Charles I. his crown are summed up in the formal charge against him at his trial. Although many grievances are omitted, and those presented are coloured by the spirit of a people in revolt, yet the arraignment places clearly before us the reasons for the action of that people.

THE CHARGE AGAINST THE KING

That the said Charles Stuart, being admitted King of England, and therein trusted with a limited power to govern by and according to the laws of the land, and not otherwise; and by his trust, oath, and office, being obliged to use the power committed to him for the good and benefit of the people, and for the preservation of their rights and liberties; yet, nevertheless, out of a wicked design to erect and uphold in himself an unlimited and tyrannical power to rule according to his will, and to overthrow the rights and liberties of the people, yea, to take away and make void the foundations thereof, and of all redress and remedy of misgovernment, which by the fundamental constitutions of this kingdom were reserved on the people's behalf in the right and power of frequent and successive Parliaments, or national meetings in Council; he, the said Charles Stuart, for accomplishment of such his designs, and for the protecting of himself and his adherents in his and their wicked practices, to the same ends hath traitorously and maliciously levied war against the present Parliament, and the people therein represented, particularly upon or about the 30th day of June, in the year of our Lord 1642, at Beverley, in the County of York; and upon or about the 30th day of July in the year aforesaid in the County of the City of York; and upon or about the 24th day of August in the same year, at the County of the Town of Nottingham, where and when he set up his standard of war; and also on or about the 23rd day of October in the same year, at Edgehill or Keynton-field, in the County of Warwick; and upon or about the 30th day of November in the same year, at Brentford, in the County of Middlesex; and upon or about the 30th day of August, in the year of our Lord 1643, at the Caversham Bridge, near Reading, in the County of Berks; and upon or about the 30th day of October in the year last mentioned, at or upon the City of Gloucester; and upon or about the 30th day of November in the year last mentioned, at Newbury, in the County of Berks; and upon or

about the 31st day of July, in the year of our Lord 1644, at Cropredy Bridge, in the County of Oxon; and upon or about the 30th day of September in the last year mentioned, at Bodmin and other places near adjacent, in the County of Cornwall; and upon or about the 30th day of November in the year last mentioned, at Newbury aforesaid; and upon or about the 8th day of June, in the year of our Lord 1645, at the Town of Leicester; and also upon the 14th day of the same month in the same year, at Naseby-field, in the County of Northampton. At which several times and places, or most of them, and at many other places in this land, at several other times within the years aforementioned, and in the year of our Lord 1646, he, the said Charles Stuart, hath caused and procured many thousands of the free people of this nation to be slain; and by divisions, parties, and insurrections within this land, by invasions from foreign parts, endeavoured and procured by him, and by many other evil ways and means, he, the said Charles Stuart, hath not only maintained and carried on the said war both by land and sea, during the years beforementioned, but also hath renewed, or caused to be renewed, the said war against the Parliament and good people of this nation in this present year 1648, in the Counties of Kent, Essex, Surrey, Sussex, Middlesex, and many other Counties and places in England and Wales, and also by sea. And particularly he, the said Charles Stuart, hath for that purpose given commission to his son the Prince, and others, whereby, besides multitudes of other persons, many such as were by the Parliament entrusted and employed for the safety of the nation (being by him or his agents corrupted to the betraying of their trust, and revolting from the Parliament), have had entertainment and commission for the continuing and renewing of war and hostility against the said Parliament and people as aforesaid. By which cruel and unnatural wars, by him, the said Charles Stuart, levied, continued, and renewed as aforesaid, much innocent blood of the free people of this nation hath been spilt, many families have been undone, the public treasure wasted and exhausted, trade obstructed and miserably decayed, vast expense and damage to the nation incurred, and many parts of this land spoiled, some of them even to desolation. And for further prosecution of his said evil designs, he, the said Charles Stuart, doth still continue his commissions to the said Prince, and other rebels and revoltors, both English and foreigners, and to the Earl of Ormond, and the Irish rebels and revoltors associated with

him; from whom further invasions upon this land are threatened, upon the procurement, and on the behalf of the said Charles Stuart.

All which wicked designs, wars, and evil practices of him, the said Charles Stuart, have been, and are carried on for the advancement and upholding of a personal interest of will, power, and pretended prerogative to himself and his family, against the public interest, common right, liberty, justice, and peace of the people of this nation, by and from whom he was entrusted as aforesaid.

By all which it appeareth that the said Charles Stuart hath been, and is the occasioner, author, and continuer of the said unnatural, cruel and bloody wars; and therein guilty of all the treasons, murders, rapines, burnings, spoils, desolations, damages and mischiefs to this nation, acted and committed in the said wars, or occasioned thereby.

(*Rushworth's Collections*, ed. cit., VII, 1396.)

161. Charles Refuses to Plead

Rushworth's Collections

The Stuart theory of the Divine Right of Kings—a theory which placed the sovereign above the law (see Nos. 148, 149 and 154)—is clearly set forth in the reasoning by which Charles I. explained his refusal to submit to the jurisdiction of the High Court of Justice. While denying the right of the court to try him, Charles attempted to vindicate his conduct. The document is an excellent demonstration of the characteristics of the Stuarts.

Having already made my protestations, not only against the illegality of this pretended Court, but also, that no earthly power can justly call me (who am your king) in question as a delinquent, I would not any more open my mouth upon this occasion, more than to refer myself to what I have spoken, were I in this case alone concerned: but the duty I owe to God in the preservation of the true liberty of my people will not suffer me at this time to be silent: for, how can any free-born subject of England call life or anything he possesseth his own, if power without right daily make new, and abrogate the old fundamental laws of the land which I now take to be the present case? Wherefore when I came hither, I expected that you would have endeavoured to have satisfied me concerning these grounds which hinder me to answer to your pretended impeachment. But since I see that nothing I can say will move you to it (though negatives are not so naturally proved as affirmatives) yet I will show you the reason why I am confident you cannot judge me, nor indeed the meanest

man in England: for I will not (like you) without showing a reason, seek to impose a belief upon my subjects.

There is no proceeding just against any man, but what is warranted, either by God's laws or the municipal laws of the country where he lives. Now I am most confident this day's proceeding cannot be warranted by God's laws; for, on the contrary, the authority of obedience unto Kings is clearly warranted, and strictly commanded in both the Old and New Testament, which, if denied, I am ready instantly to prove.

And for the question now in hand, there it is said, that 'where the word of a King is, there is power; and who may say unto him, what dost thou?' Eccles. viii. 4. Then for the law of this land, I am no less confident, that no learned lawyer will affirm that an impeachment can lie against the King, they all going in his name: and one of their maxims is, that the King can do no wrong. Besides, the law upon which you ground your proceedings, must either be old or new: if old, show it; if new, tell what authority, warranted by the fundamental laws of the land, hath made it, and when. But how the House of Commons can erect a Court of Judicature, which was never one itself (as is well known to all lawyers) I leave to God and the world to judge. And it were full as strange, that they should pretend to make laws without King or Lords' House, to any that have heard speak of the laws of England.

And admitting, but not granting, that the people of England's commission could grant your pretended power, I see nothing you can show for that; for certainly you never asked the question of the tenth man in the kingdom, and in this way you manifestly wrong even the poorest ploughman, if you demand not his free consent; nor can you pretend any colour for this your pretended commission, without the consent at least of the major part of every man in England of whatsoever quality or condition, which I am sure you never went about to seek, so far are you from having it. Thus you see that I speak not for my own right alone, as I am your King, but also for the true liberty of all my subjects, which consists not in the power of government, but in living under such laws, such a government, as may give themselves the best assurance of their lives, and property of their goods: nor in this must or do I forget the privileges of both Houses of Parliament, which this day's proceedings do not only violate, but likewise occasion the greatest breach of their public faith that (I believe) ever was heard of, with which I

am far from charging the two Houses; for all the pretended crimes laid against me bear date long before this Treaty at Newport, in which I having concluded as much as in me lay, and hopefully expecting the Houses' agreement thereunto, I was suddenly surprised and hurried from thence as a prisoner; upon which account I am against my will brought hither, where since I am come, I cannot but to my power defend the ancient laws and liberties of this kingdom, together with my own just right. Then for anything I can see, the higher House is totally excluded; and for the House of Commons, it is too well known that the major part of them are detained or deterred from sitting; so as if I had no other, this were sufficient for me to protest against the lawfulness of your pretended Court. Besides all this, the peace of the kingdom is not the least in my thoughts; and what hope of settlement is there, so long as power reigns without rule or law, changing the whole frame of that government under which this kingdom hath flourished for many hundred years? (nor will I say what will fall out in case this lawless, unjust proceeding against me do go on) and believe it, the Commons of England will not thank you for this change; for they will remember how happy they have been of late years under the reigns of Queen Elizabeth, the King my father, and myself, until the beginning of these unhappy troubles, and will have cause to doubt, that they shall never be so happy under any new: and by this time it will be too sensibly evident, that the arms I took up were only to defend the fundamental laws of this kingdom against those who have supposed my power hath totally changed the ancient government.

Thus, having showed you briefly the reasons why I cannot submit to your pretended authority, without violating the trust which I have from God for the welfare and liberty of my people, I expect from you either clear reasons to convince my judgment, showing me that I am in an error (and then truly I will answer) or that you will withdraw your proceedings.

This I intended to speak in Westminster Hall, on Monday, January 22, but against reason was hindered to show my reasons.

Rushworth's Collections, ed. cit., VII, 1403.)

162. The Sentence of the King

Rushworth's Collections

The sentence of the High Court of Justice affirms the limited power of the English monarchs, and sternly enumerates Charles' misuses of his royal prerogative. The judges reiterate the doc-

trine which formed the basis of the Puritan Revolution, that a king can be guilty of treason and, and if thus guilty, can be punished by the nation from whom alone is derived the right to rule.

Whereas the Commons of England assembled in Parliament, have by their late Act intituled an Act of the Commons of England assembled in Parliament, for erecting an High Court of Justice for the trying and judging of Charles Stuart, King of England, authorised and constituted us an High Court of Justice for the trying and judging of the said Charles Stuart for the crimes and treasons in the said Act mentioned; by virtue whereof the said Charles Stuart hath been three several times convented before this High Court, where the first day, being Saturday, the 20th of January instant, in pursuance of the said Act, a charge of high treason and other high crimes was, in the behalf of the people of England, exhibited against him, and read openly unto him, wherein he was charged, that he, the said Charles Stuart, being admitted King of England, and therein trusted with a limited power to govern by, and according to the law of the land, and not otherwise; and by his trust, oath, and office, being obliged to use the power committed to him for the good and benefit of the people, and for the preservation of their rights and liberties; yet, nevertheless, out of a wicked design to erect and uphold in himself an unlimited and tyrannical power to rule according to his will, and to overthrow the rights and liberties of the people, and to take away and make void the foundations thereof, and of all redress and remedy of misgovernment, which by the fundamental constitutions of this kingdom were reserved on the people's behalf in the right and power of frequent and successive Parliaments, or national meetings in Council; he, the said Charles Stuart, for accomplishment of such his designs, and for the protecting of himself and his adherents in his and their wicked practices, to the same end hath traitorously and maliciously levied war against the present Parliament, and people therein represented, as with the circumstances of time and place 's in the said charge more particularly set forth; and that he hath thereby caused and procured many thousands of the free people of this nation to be slain: and by divisions, parties, and insurrections within this land, by invasions from foreign parts, endeavoured and procured by him, and by many other evil ways and means, he, the said Charles Stuart, hath not only maintained and carried on the said war both by sea and

land, but also hath renewed, or caused to be renewed, the said war against the Parliament and good people of this nation in this present year 1648, in several counties and places in this kingdom in the charge specified; and that he hath for that purpose given his commission to his son the Prince, and others, whereby, besides multitudes of other persons, many such as were by the Parliament entrusted and employed for the safety of this nation, being by him or his agents corrupted to the betraying of their trust, and revolting from the Parliament, have had entertainment and commission for the continuing and renewing of the war and hostility against the said Parliament and people: and that by the said cruel and unnatural war so levied, continued and renewed, much innocent blood of the free people of this nation hath been spilt, many families undone, the public treasure wasted, trade obstructed and miserably decayed, vast expense and damage to the nation incurred, and many parts of the land spoiled, some of them even to desolation: and that he still continues his commission to his said son, and other rebels and revolters, both English and foreigners, and to the Earl of Ormond, and to the Irish rebels and revolters associated with him, from whom further invasions of this land are threatened by his procurement and of his behalf: and that all the said wicked designs, wars, and evil practices of him, the said Charles Stuart, were still carried on for the advancement and upholding of the personal interest of will, power, and pretended prerogative to himself and his family, against the public interest, common right, liberty, justice, and peace of the people of this nation: and that he thereby hath been and is the occasioner, author, and continuer of the said unnatural, cruel, and bloody wars, and therein guilty of all the treasons, murders, rapines, burnings, spoils, desolations, damage, and mischief to this nation, acted and committed in the said wars, or occasioned thereby; whereupon the proceedings and judgment of this Court were prayed against him, as a tyrant, traitor, and murderer, and public enemy to the Commonwealth, as by the said charge more fully appeareth. To which charge, being read unto him as aforesaid, he, the said Charles Stuart, was required to give his answer; but he refused to do so: and upon Monday, the 22nd day of January instant, being again brought before this Court, and there required to answer directly to the said charge, he still refused so to do; whereupon his default and contumacy was entered; and the next day, being the third time brought before the

Court, judgment was then prayed against him on the behalf of the people of England for his contumacy, and for the matters contained against him in the said charge, as taking the same for confessed, in regard of his refusing to answer thereto. Yet notwithstanding this Court (not willing to take advantage of his contempt) did once more require him to answer to the said charge; but he again refused so to do: upon which his several defaults, this Court might justly have proceeded to judgment against him, both for his contumacy and the matters of the charge, taking the same for confessed as aforesaid.

Yet nevertheless this Court, for its own clearer information and further satisfaction, have thought fit to examine witnesses upon oath and take notice of other evidences touching the matters contained in the said charge, which accordingly they have done.

Now therefore upon serious and mature deliberation of the premises, and consideration had of the notoriety of the matters of fact charged upon him as aforesaid, this Court is in judgment and conscience satisfied that he, the said Charles Stuart, is guilty of levying war against the said Parliament and people, and maintaining and continuing the same; for which in the said charge he stands accused, and by the general course of his government, counsels, and practices, before and since this Parliament began (which have been and are notorious and public, and the effects whereof remain abundantly upon record) this Court is fully satisfied in their judgments and consciences that he has been and is guilty of the wicked design and endeavours in the said charge set forth; and that the said war hath been levied, maintained, and continued by him as aforesaid, in prosecution and for accomplishment of the said designs; and that he hath been and is the occasioner, author, and continuer of the said unnatural, cruel, and bloody wars, and therein guilty of high treason, and of the murders, rapines, burnings, spoils, desolations, damage, and mischief to this nation acted and committed in the said war, and occasioned thereby. For all which treasons and crimes this Court doth adjudge that he, the said Charles Stuart, as a tyrant, traitor, murderer, and public enemy to the good people of this nation, shall be put to death by severing of his head from his body.

163. The Death Warrant of the King

Rushworth's Collections

The death warrant of Charles I., however pathetic in its tragedy of misspent opportunities and of a monarch dying at the hands of his subjects, yet bears in its words the triumphant vindication of the will of the people as the real force and majesty of all law.

*At the High Court of Justice for the trying and judging of
Charles Stuart, King of England, Jan. 29, 1648.*

Whereas Charles Stuart, King of England, is, and standeth convicted, attainted, and condemned of high treason, and other high crimes; and sentence upon Saturday last was pronounced against him by this Court, to be put to death by the severing of his head from his body; of which sentence, execution yet remaineth to be done: These are therefore to will and require you to see the said sentence executed in the open street before Whitehall, upon the morrow, being the 30th day of this instant month of January, between the hours of 10 in the morning and 5 in the afternoon of the same day, with full effect. And for so doing this shall be your sufficient warrant. And these are to require all officers, soldiers, and others, the good people of this nation of England, to be assisting unto you in this service.

To Col. Francis Hacker, Col. Huncks, and Lieut.-Col. Phray, and to every of them.

Given under our hands and seals.

John Bradshaw.

Thomas Grèy.

Oliver Cromwell.

etc., etc.

(*Rushworth's Collections*, ed. cit., VII, 1426.)

CHAPTER XXII

ENGLAND A COMMONWEALTH

Formal Declaration of the Commonwealth

Acts and Ordinances, Scobell

The Acts abolishing the office of king and the House of Lords were followed by the statute which declared England to be a commonwealth. Yet these enactments, while they close the first period of the English monarchy, did not promote a real democracy. The despotism of the king was succeeded by the despotism of the Lord Protector, and the change of government was only in name. The oath of fidelity required to be taken, ran as follows: "I do declare and promise that I will be true and faithful to the Commonwealth of England, as it is now established, without a King or House of Lords."

164. The Act Abolishing the Office of King

(May 17, 1649)

Acts and Ordinances, Scobell

Whereas Charles Stuart, late King of England, Ireland, and the territories and dominions thereunto belonging, hath by authority derived from Parliament been and is hereby declared to be justly condemned, adjudged to die, and put to death, for many treasons, murders, and other heinous offences committed by him, by which judgment he stood, and is hereby declared to be attained to high treason, whereby his issue and posterity, and all others pretending title under him, are become incapable of the said Crowns, or of being King or Queen of the said kingdom or dominions, or either or any of them; be it therefore enacted and ordained, and it is enacted, ordained, and declared by this present Parliament, and by authority thereof, that all the people of England and Ireland, and the dominions and territories thereunto belonging, of what degree or condition soever, are discharged of all fealty, homage, and allegiance which is or shall be pretended to be due unto any of the issue and posterity of the said late King, or any claiming under him; and that Charles Stuart, eldest son, and James called Duke of York, second son, and all other the issue and posterity of him the said late King, and all and

every person and persons pretending title from, by, or under him, are and be disabled to hold or enjoy the said Crown of England and Ireland, and other the dominions thereunto belonging, or any of them; or to have the name, title, style, or dignity of King or Queen of England and Ireland, Prince of Wales, or any of them; or to have and enjoy the power and dominion of the said kingdoms and dominions, or any of them, or the honors, manors, lands, tenements, possessions, and hereditaments belonging or appertaining to the said Crown of England and Ireland, and other the dominions aforesaid, or to any of them; or to the Principality of Wales, Duchy of Lancaster or Cornwall, or any or either of them, any law, statute, ordinance, usage, or custom to the contrary hereof in any wise notwithstanding.

And whereas it is and hath been found by experience, that the office of a King in this nation and Ireland, and to have the power thereof in any single person, is unnecessary, burdensome, and dangerous to the liberty, safety, and public interest of the people, and that for the most part, use hath been made of the regal power and prerogative to oppress and impoverish and enslave the subject; and that usually and naturally any one person in such power makes it his interest to inroach upon the just freedom and liberty of the people, and to promote the setting up of their own will and power above the laws, that so they might enslave these kingdoms to their own lust; be it therefore enacted and ordained by this present Parliament, and by authority of the same, that the office of a King in this nation shall not henceforth reside in or be exercised by any one single person; and that no one person whatsoever shall or may have, or hold the office, style, dignity, power, or authority of King of the said kingdoms and dominions, or any of them, or of the Prince of Wales, any law, statute, usage, or custom to the contrary thereof in any wise notwithstanding.

And it is hereby enacted, that if any person or persons shall endeavour to attempt by force of arms or otherwise, or be aiding, assisting, comforting, or abetting unto any person or persons that shall by any ways or means whatsoever endeavour or attempt the reviving or setting up again of any pretended right of the said Charles, eldest son to the said late King, James called Duke of York, or of any other the issue and posterity of the said late King, or of any person or persons claiming under him or them, to the said regal office, style, dignity, or authority, or to be Prince of Wales; or the

promoting of any one person whatsoever to the name, style, dignity, power, prerogative, or authority of King of England and Ireland, and dominions aforesaid, or any of them; that then every such offence shall be deemed and adjudged high treason, and the offenders therein, their counsellors, procurers, aiders and abettors, being convicted of the said offence, or any of them, shall be deemed and adjudged traitors against the Parliament and people of England, and shall suffer, lose, and forfeit, and have such like and the same pains, forfeitures, judgments, and execution as is used in case of high treason.

And whereas by the abolition of the kingly office provided for in this Act, a most happy way is made for this nation (if God see it good) to return to its just and ancient right, of being governed by its own representatives or national meetings in council, from time to time chosen and entrusted for that purpose by the people, it is therefore resolved and declared by the Commons assembled in Parliament, that they will put a period to the sitting of this present Parliament, and dissolve the same so soon as may possibly stand with the safety of the people that hath betrusted them, and with what is absolutely necessary for the preserving and upholding the Government now settled in the way of a Commonwealth; and that they will carefully provide for the certain choosing, meeting, and sitting of the next and future representatives, with such other circumstances of freedom in choice and equality in distribution of members to be elected thereunto, as shall most conduce to the lasting freedom and good of this Commonwealth.

And it is hereby further enacted and declared, notwithstanding any thing contained in this Act, no person or persons of what condition and quality soever, within the Commonwealth of England and Ireland, dominion of Wales, the islands of Guernsey and Jersey, and town of Berwick-upon-Tweed, shall be discharged from the obedience and subjection which he and they owe to the Government of this nation, as it is now declared, but all and every of them shall in all things render and perform the same, as of right is due unto the supreme authority hereby declared to reside in this and the successive representatives of the people of this nation, and in them only.

165. The House of Lords Abolished

(March 19, 1649)

The Commons of England assembled in Parliament, finding by too long experience that the House of Lords is useless and dangerous to the people of England to be continued, have thought fit to ordain and enact, and be it ordained and enacted by this present Parliament, and by the authority of the same, that from henceforth the House of Lords in Parliament shall be and is hereby wholly abolished and taken away; and that the Lords shall not from henceforth meet or sit in the said House called the Lords' House, or in any other house or place whatsoever, as a House of Lords; nor shall sit, vote, advise, adjudge, or determine of any matter or thing whatsoever, as a House of Lords in Parliament: nevertheless it is hereby declared, that neither such Lords as have demeaned themselves with honour, courage, and fidelity to the Commonwealth, nor their posterities who shall continue so, shall be excluded from the public councils of the nation, but shall be admitted thereunto, and have their free vote in Parliament, if they shall be thereunto elected, as other persons of interest elected and qualified thereunto ought to have.

And be it further ordained and enacted by the authority aforesaid, that no Peer of this land, not being elected, qualified and sitting in Parliament as aforesaid, shall claim, have, or make use of any privilege of Parliament, either in relation to his person, quality, or estate, any law, usage, or custom to the contrary notwithstanding.

*(Scobell Collection, ed. cited, II, 8.)***166. England declared to be a Commonwealth**

(May 19, 1649)

Be it declared and enacted by this present Parliament, and by the authority of the same, that the people of England, and of all the dominions and territories thereunto belonging, are and shall be, and are hereby constituted, made, established, and confirmed, to be a Commonwealth and Free State, and shall from henceforth be governed as a Commonwealth and Free State by the supreme authority of this nation, the representatives of the people in Parliament, and by such as they shall appoint and constitute as officers and ministers under them for the good of the people, and that without any King or House of Lords.

(Scobell Collection, ed. cited, II, 30.)

167. The Instrument of Government*Parliamentary History*

In the stormy period of the Puritan Revolution, three great models for the constitutional government of the realm were evolved. These were, the Agreement of the People (Jan. 15, 1648-9), the Instrument of Government (Dec. 16, 1653), and the Humble Petition and Advice (May 25, 1657), with its amendments (June 26, 1657). In these documents is foreshadowed much of the constitutional and political development of Great Britain and of the United States of America. Although these constitutional plans failed of immediate effect, this was not because of their lack of merit. The circumstances of the times were such as to prevent the realization of the political ideals therein set forth. The models themselves do not entirely escape the influence of the personal equation of the environment which made them possible. The Instrument of Government, however, is least affected by the fears of the people and the ambitions of their leaders. It has therefore been selected as a type of the highest development of constitutional theory that had yet been reached in English history.

The government of the Commonwealth of England, Scotland, and Ireland, and the dominions thereunto belonging.

I. That the supreme legislative authority of the Commonwealth of England, Scotland, and Ireland, and the dominions thereunto belonging, shall be and reside in one person, and the people assembled in Parliament: the style of which person shall be the Lord Protector of the Commonwealth of England, Scotland, and Ireland.

II. That the exercise of the chief magistracy and the administration of the government over the said countries and dominions, and the people thereof, shall be in the Lord Protector, assisted with a council, the number whereof shall not exceed twenty-one, nor be less than thirteen.

III. That all writs, processes, commissions, patents, grants, and other things, which now run in the name and style of the keepers of the liberty of England by authority of Parliament, shall run in the name and style of the Lord Protector, from whom, for the future, shall be derived all magistracy and honours in these three nations; and have the power of pardons (except in case of murders and treason) and benefit of all forfeitures for the public use; and shall govern the said countries and dominions in all things by the advice of the council, and according to these presents and the laws.

IV. That the Lord Protector, the Parliament sitting, shall dispose and order the militia and forces, both by sea and land, for the peace and good of the three nations, by consent of

Parliament; and that the Lord Protector, with the advice and consent of the major part of the council, shall dispose and order the militia for the ends aforesaid in the intervals of Parliament.

V. That the Lord Protector, by the advice aforesaid, shall direct in all things concerning the keeping and holding of a good correspondency with foreign kings, princes, and states; and also, with the consent of the major part of the council, have the power of war and peace.

VI. That the laws shall not be altered, suspended, abrogated, or repealed, nor any new law made, nor any tax, charge, or imposition laid upon the people, but by common consent in Parliament, save only as is expressed in the thirtieth article.

VII. That there shall be a Parliament summoned to meet at Westminster upon the third day of September, 1654, and that successively a Parliament shall be summoned once in every third year, to be accounted from the dissolution of the present Parliament.

VIII. That neither the Parliament to be next summoned, nor any successive Parliaments, shall, during the time of five months, to be accounted from the day of their first meeting, be adjourned, prorogued, or dissolved, without their own consent.

IX. That as well the next as all other successive Parliaments shall be summoned and elected in manner hereafter expressed; that is to say, the persons to be chosen within England, Wales, the Isles of Jersey, Guernsey, and the town of Berwick-upon-Tweed, to sit and serve in Parliament, shall be, and not exceed, the number of four hundred. The persons to be chosen within Scotland, to sit and serve in Parliament, shall be, and not exceed, the number of thirty; and the persons to be chosen to sit in Parliament for Ireland shall be, and not exceed, the number of thirty.

X. That the persons to be elected to sit in Parliament from time to time, for the several counties of England, Wales, the Isles of Jersey and Guernsey, and the town of Berwick-upon-Tweed, and all places within the same respectively, shall be according to the proportions and numbers hereafter expressed: that is to say, [Here follows the apportionment.]

The distribution of the persons to be chosen for Scotland and Ireland, and the several counties, cities, and places therein, shall be according to such proportions and number as shall be agreed upon and declared by the Lord Protector

and the major part of the council, before the sending forth writs of summons for the next Parliament.

XI. That the summons to Parliament shall be by writ under the Great Seal of England, directed to the sheriffs of the several and respective counties, with such alteration as may suit with the present government, to be made by the Lord Protector and his council, which the Chancellor, Keeper, or Commissioners of the Great Seal shall seal, issue, and send abroad by warrant from the Lord Protector. If the Lord Protector shall not give warrant for issuing of writs of summons for the next Parliament, before the first of June, 1654, or for the Triennial Parliaments, before the first day of August in every third year, to be accounted as aforesaid; that then the Chancellor, Keeper, or Commissioners of the Great Seal for the time being, shall, without any warrant or direction, within seven days after the said first day of June, 1654, seal, issue, and send abroad writs of summons (changing therein what is to be changed as aforesaid) to the several and respective Sheriffs of England, Scotland, and Ireland, for summoning the Parliament to meet at Westminster, the third day of September next; and shall likewise, within seven days after the said first day of August, in every third year, to be accounted from the dissolution of the precedent Parliament, seal, issue, and send forth abroad several writs of summons (changing therein what is to be changed) as aforesaid, for summoning the Parliament to meet at Westminster the sixth of November in that third year. That the said several and respective Sheriffs shall, within ten days after the receipt of such writ as aforesaid, cause the same to be proclaimed and published in every market-town within his county upon the market-days thereof, between twelve and three of the clock; and shall then also publish and declare the certain day of the week and month, for choosing members to serve in Parliament for the body of the said county, according to the tenor of the said writ, which shall be upon Wednesday five weeks after the date of the writ; and shall likewise declare the place where the election shall be made: for which purpose he shall appoint the most convenient place for the whole county to meet in; and shall send precepts for elections to be made in all and every city, town, borough, or place within his county, where elections are to be made by virtue of these presents, to the Mayor, Sheriff, or other head officer of such city, town, borough, or place, within three days after the receipt of such writ and writs; which the said Mayors, Sheriffs, and officers

respectively are to make publication of, and of the certain day for such elections to be made in the said city, town, or place aforesaid, and to cause elections to be made accordingly.

XII. That at the day and place of elections, the Sheriff of each county, and the said Mayors, Sheriffs, Bailiffs, and other head officers within their cities, towns, boroughs, and places respectively, shall take view of the said elections, and shall make return into the chancery within twenty days after the said elections, of the persons elected by the greater number of electors, under their hands and seals, between him on the one part, and the electors on the other part; wherein shall be contained, that the persons elected shall not have power to alter the government as it is hereby settled in one single person and a Parliament.

XIII. That the Sheriff, who shall wittingly and willingly make any false return, or neglect his duty, shall incur the penalty of 2000 marks of lawful English money; the one moiety to the Lord Protector, and the other moiety to such person as will sue for the same.

XIV. That all and every person and persons, who have aided, advised, assisted, or abetted in any war against the Parliament, since the first day of January, 1641 (unless they have been since in the service of the Parliament, and given signal testimony of their good affection thereunto) shall be disabled and incapable to be elected, or to give any vote in the election of any members to serve in the next Parliament, or in the three succeeding Triennial Parliaments.

XV. That all such, who have advised, assisted, or abetted the rebellion of Ireland, shall be disabled and incapable for ever to be elected, or give any vote in the election of any member to serve in Parliament; as also all such who do or shall profess the Roman Catholic religion.

XVI. That all votes and elections given or made contrary, or not according to these qualifications, shall be null and void; and if any person, who is hereby made incapable, shall give his vote for election of members to serve in Parliament, such person shall lose and forfeit one full year's value of his real estate, and one full third part of his personal estate; one moiety thereof to the Lord Protector, and the other moiety to him or them who shall sue for the same.

XVII. That the persons who shall be elected to serve in Parliament, shall be such (and no other than such) as are persons of known integrity, fearing God, and of good conversation, and being of the age of twenty-one years.

XVIII. That all and every person and persons seised or possessed to his own use, of any estate, real or personal, to the value of £200, and not within the aforesaid exceptions, shall be capable to elect members to serve in Parliament for counties.

XIX. That the Chancellor, Keeper, or Commissioners of the Great Seal, shall be sworn before they enter into their offices, truly and faithfully to issue forth, and send abroad, writs of summons to Parliament, at the times and in the manner before expressed: and in case of neglect or failure to issue and send abroad writs accordingly, he or they shall for every such offence be guilty of high treason, and suffer the pains and penalties thereof.

XX. That in case writs be not issued out, as is before expressed, but that there be a neglect therein, fifteen days after the time wherein the same ought to be issued out by the Chancellor, Keeper, or Commissioners of the Great Seal; that then the Parliament shall, as often as such failure shall happen, assemble and be held at Westminster, in the usual place, at the times prefixed, in manner and by the means hereafter expressed: that is to say, that the sheriffs of the several and respective counties, sherriffdoms, cities, boroughs, and places aforesaid within England, Wales, Scotland, and Ireland, the Chancellor, Masters, and Scholars of the Universities of Oxford and Cambridge, and the Mayor and Bailiffs of the borough of Berwick-upon-Tweed, and other places aforesaid respectively, shall at the several courts and places to be appointed as aforesaid, within thirty days after the said fifteen days, cause such members to be chosen for their said several and respective counties, sherriffdoms, universities, cities, boroughs, and places aforesaid, by such persons, and in such manner, as if several and respective writs of summons to Parliament under the Great Seal had issued and been awarded according to the tenor aforesaid: that if the sheriff, or other persons authorised, shall neglect his or their duty herein, that all and every such sheriff and person authorised as aforesaid, so neglecting his or their duty, shall, for every such offence, be guilty of high treason, and shall suffer the pains and penalties thereof.

XXI. That the clerk, called the clerk of the Commonwealth in Chancery for the time being, and all others, who shall afterwards execute that office, to whom the returns shall be made, shall for the next Parliament, and the two succeeding triennial Parliaments, the next day after such re-

turn, certify the names of the several persons so returned, and of the places for which he and they were chosen respectively, unto the Council; who shall peruse the said returns, and examine whether the persons so elected and returned be such as is agreeable to the qualifications, and not disabled to be elected: and that every person and persons being so duly elected, and being approved of by the major part of the Council to be persons not disabled, but qualified as aforesaid, shall be esteemed a member of Parliament, and be admitted to sit in Parliament, and not otherwise.

XXII. That the persons so chosen and assembled in manner aforesaid, or any sixty of them, shall be, and be deemed the Parliament of England, Scotland, and Ireland; and the supreme legislative power to be and reside in the Lord Protector and such Parliament, in manner herein expressed.

XXIII. That the Lord Protector, with the advice of the major part of the Council, shall at any other time than is before expressed, when the necessities of the State shall require it, summon Parliaments in manner before expressed, which shall not be adjourned, prorogued, or dissolved without their own consent, during the first three months of their sitting. And in case of future war with any foreign State, a Parliament shall be forthwith summoned for their advice concerning the same.

XXIV. That all Bills agreed unto by the Parliament, shall be presented to the Lord Protector for his consent; and in case he shall not give his consent thereto within twenty days after they shall be presented to him, or give satisfaction to the Parliament within the time limited, that then, upon declaration of the Parliament that the Lord Protector hath not consented nor given satisfaction, such Bills shall pass into and become laws, although he shall not give his consent thereunto; provided such Bills contain nothing in them contrary to the matters contained in these presents.

XXV. That Henry Lawrence, Esq., [The names of fifteen members follow], or any seven of them, shall be a Council for the purposes expressed in this writing; and upon the death or other removal of any of them, the Parliament shall nominate six persons of ability, integrity, and fearing God, for every one that is dead or removed; out of which the major part of the Council shall elect two, and present them to the Lord Protector, of which he shall elect one; and in case the Parliament shall not nominate within twenty days after notice given unto them thereof, the major part of the

Council shall nominate three as aforesaid to the Lord Protector, who out of them shall supply the vacancy; and until this choice be made, the remaining part of the Council shall execute as fully in all things, as if their number were full. And in case of corruption, or other miscarriage in any of the Council in their trust, the Parliament shall appoint seven of their number, and the Council six, who, together with the Lord Chancellor, Lord Keeper, or Commissioners of the Great Seal for the time being, shall have power to hear and determine such corruption and miscarriage, and to award and inflict punishment, as the nature of the offence shall deserve, which punishment shall not be pardoned or remitted by the Lord Protector; and, in the interval of Parliaments, the major part of the Council, with the consent of the Lord Protector, may, for corruption or other miscarriage as aforesaid, suspend any of their number from the exercise of their trust, if they shall find it just, until the matter shall be heard and examined as aforesaid.

XXVI. That the Lord Protector and the major part of the Council aforesaid may, at any time before the meeting of the next Parliament, add to the Council such persons as they shall think fit, provided the number of the Council be not made thereby to exceed twenty-one, and the quorum to be proportioned accordingly by the Lord Protector and the major part of the Council.

XXVII. That a constant yearly revenue shall be raised, settled, and established for maintaining of 10,000 horse and dragoons, and 20,000 foot, in England, Scotland and Ireland, for the defence and security thereof, and also for a convenient number of ships for guarding of the seas; besides £200,000 per annum for defraying the other necessary charges of administration of justice, and other expenses of the Government, which revenue shall be raised by the customs, and such other ways and means as shall be agreed upon by the Lord Protector and the Council, and shall not be taken away or diminished, nor the way agreed upon for raising the same altered, but by the consent of the Lord Protector and the Parliament.

XXVIII. That the said yearly revenue shall be paid into the public treasury, and shall be issued out for the uses aforesaid.

XXIX. That in case there shall not be cause hereafter to keep up so great a defence both at land or sea, but that there be an abatement made thereof, the money which will be

saved thereby shall remain in bank for the public service, and not be employed to any other use but by consent of Parliament, or, in the intervals of Parliament, by the Lord Protector and major part of the Council.

XXX. That the raising of money for defraying the charge of the present extraordinary forces, both at sea and land, in respect of the present wars, shall be by consent of Parliament, and not otherwise: save only that the Lord Protector, with the consent of the major part of the Council, for preventing the disorders and dangers which might otherwise fall out both by sea and land, shall have power, until the meeting of the first Parliament, to raise money for the purposes aforesaid; and also to make laws and ordinances for the peace and welfare of these nations where it shall be necessary, which shall be binding and in force, until order shall be taken in Parliament concerning the same.

XXXI. That the lands, tenements, rents, royalties, jurisdictions and hereditaments which remain yet unsold or undisposed of, by Act or Ordinance of Parliament, belonging to the Commonwealth (except the forests and chases, and the honours and manors belonging to the same; the lands of the rebels in Ireland, lying in the four counties of Dublin, Cork, Kildare, and Carlow; the lands forfeited by the people of Scotland in the late wars, and also the lands of Papists and delinquents in England who have not yet compounded), shall be vested in the Lord Protector, to hold, to him and his successors, Lords Protectors of these nations, and shall not be alienated but by consent in Parliament. And all debts, fines, issues, amercements, penalties and profits, certain and casual, due to the Keepers of the liberties of England by authority of Parliament, shall be due to the Lord Protector, and be payable into his public receipt, and shall be recovered and prosecuted in his name.

XXX. That the office of Lord Protector over these nations shall be elective and not hereditary; and upon the death of the Lord Protector, another fit person shall be forthwith elected to succeed him in the Government; which election shall be by the Council, who, immediately upon the death of the Lord Protector, shall assemble in the Chamber where they usually sit in Council; and, having given notice to all their members of the cause of their assembling, shall, being thirteen at least present, proceed to the election; and, before they depart the said Chamber, shall elect a fit person to succeed in the Government, and forthwith cause proclama-

tion thereof to be made in all the three nations as shall be requisite; and the person that they, or the major part of them, shall elect as aforesaid, shall be, and shall be taken to be, Lord Protector over these nations of England, Scotland and Ireland, and the dominions thereto belonging. Provided that none of the children of the late King, nor any of his line or family, be elected to be Lord Protector or other Chief Magistrate over these nations, or any the dominions thereto belonging. And until the aforesaid election be past, the Council shall take care of the Government, and administer in all things as fully as the Lord Protector, or the Lord Protector and Council are enabled to do.

XXXIII. That Oliver Cromwell, Captain-General of the forces of England, Scotland and Ireland, shall be, and is hereby declared to be, Lord Protector of the Commonwealth of England, Scotland and Ireland, and the dominions thereto belonging, for his life.

XXXIV. That the Chancellor, Keeper or Commissioners of the Great Seal, the Treasurer, Admiral, Chief Governors of Ireland and Scotland, and the Chief Justices of both the Benches, shall be chosen by the approbation of Parliament; and, in the intervals of Parliament, by the approbation of the major part of the Council, to be afterwards approved by the Parliament.

XXXV. That the Christian religion, as contained in the Scriptures, be held forth and recommended as the public profession of these nations; and that, as soon as may be, a provision, less subject to scruple and contention, and more certain than the present, be made for the encouragement and maintenance of able and painful teachers, for instructing the people, and for discovery and confutation of error, hereby, and whatever is contrary to sound doctrine; and that until such provision be made, the present maintenance shall not be taken away or impeached.

XXXVI. That to the public profession held forth none shall be compelled by penalties or otherwise; but that endeavours be used to win them by sound doctrine and the example of a good conversation.

XXXVII. That such as profess faith in God by Jesus Christ (though differing in judgment from the doctrine, worship or discipline publicly held forth) shall not be restrained from, but shall be protected in, the profession of the faith and exercise of their religion; so as they abuse not this liberty to the civil injury of others and to the actual dis-

turbance of the public peace on their parts: provided this liberty be not extended to Popery or Prelacy, nor to such as, under the profession of Christ, hold forth and practise licentiousness.

XXXVIII. That all laws, statutes and ordinances, and clauses in any law, statute or ordinance to the contrary of the aforesaid liberty, shall be esteemed as null and void.

XXXIX. That the Acts and Ordinances of Parliament made for the sale or other disposition of the lands, rents and hereditaments of the late King, Queen, and Prince, of Archbishops and Bishops, etc., Deans and Chapters, the lands of delinquents and forest-lands, or any of them, or of any other lands, tenements, rents and hereditaments belonging to the Commonwealth, shall nowise be impeached or made invalid, but shall remain good and firm; and that the securities given by Act and Ordinance of Parliament for any sum or sums of money, by any of the said lands, the excise, or any other public revenue; and also the securities given by the public faith of the nation, and the engagement of the public faith for satisfaction of debts and damages, shall remain firm and good, and not be made void and invalid upon any pretence whatsoever.

XL. That the Articles given to or made with the enemy, and afterwards confirmed by Parliament, shall be performed and made good to the persons concerned therein; and that such appeal as were depending in the last Parliament for relief concerning bills of sale of delinquents' estates, may be heard and determined the next Parliament, any thing in this writing or otherwise to the contrary notwithstanding.

XLI. That every successive Lord Protector over these nations shall take and subscribe a solemn oath, in the presence of the Council, and such others as they shall call to them, that he will seek the peace, quiet and welfare of these nations, cause law and justice to be equally administered; and that he will not violate or infringe the matters and things contained in this writing, and in all other things will, to his power and to the best of his understanding, govern these nations according to the laws, statutes and customs thereof.

XLII. That each person of the Council shall, before they enter upon their trust, take and subscribe an oath, that they will be true and faithful in their trust, according to the best of their knowledge; and that in the election of every successive Lord Protector they shall proceed therein impartially,

and do nothing therein for any promise, fear, favour or reward.

(*Parliamentary History*, ed. cit., XX, 248.)

168. Cromwell disciplines his First Parliament

Goddard

The first Parliament of the Commonwealth met in September, 1654. Its members seemed to be resolved to take from Cromwell much of the power which he considered necessary to the office of Lord Protector. These members desired to make absolute the authority of Parliament. Some of them were anxious to set aside the Instrument of Government; others had no love for the Commonwealth or its leaders. So great was the popular dissatisfaction, so imminent was the danger that the royalists might regain power, that Cromwell resolved upon a desperate remedy. He proposed to the members of Parliament a form of oath of allegiance, binding them to himself and his form of government and pledging them not to alter that form. All members who refused to subscribe to this oath he turned out of the House. An account of this high-handed, though — from the Puritan point of view — justifiable proceeding, is given in the following selection.

Tuesday 12. [Sept. 1654.] This morning news was brought to the Herald's Office, where I lay, with my brother Bish, that the Parliament House was dissolved, and that, for certain, the Council of State and Council of War, had sat together all the Sabbath-day before, and had then contrived this dissolution. Notwithstanding, I was resolved to go to Westminster, to satisfy myself of the truth, and to take my share of what I should see or learn there.

Going by water to Westminster, I was told that the Parliament doors were locked up and guarded with soldiers, and the barges were to attend the Protector to the Painted Chamber. As I went, I saw two barges at the Privy Stairs. Being come to the Hall, I was confirmed in what I had heard. Nevertheless, I did purpose not to take things merely upon trust, but would receive an actual repulse, to confirm my faith.

Accordingly, I attempted up the Parliament-stairs, but there was a guard of soldiers, who told me there was no passage that way; that the House was locked up, and command given to give no admittance to any. That, if I were a member, I might go into the Painted Chamber, where the Protector would presently be.

The mace was taken away by Commissary-general Whalley. The Speaker and all the members were walking up and down the Hall, the Court of Requests, and the Painted Cham-

ber, expecting the Protector's coming; the passages there, being likewise guarded with soldiers.

The Protector coming about ten of the clock, attended with his officers, life-guard, and halberds, he took his place upon the scaffold, where it was before, and made a speech of about an hour and a-half long. Wherein he did not forbear to tell us, that he did expect and hope for better fruit and effect of our last meeting in that place than he had yet found; that he perceived there was a necessity upon him to magnify, as he called it, his office. He told us a large series of the providences of God and the suffrages of the people, which were so many witnesses, evidences, and seals, of his calling to the government, and which did cause him to put a greater value upon his title so derived, than upon the broken hereditary title of any prince whatsoever. That having received his office from God and from the people, he was resolved never to part with it, until God and the people should take it from him.

That it could not be expected, when he told us before, that we were a free Parliament, that he meant it otherwise free than as it should act under the government. That those pitiful forwardnesses and peevishnesses, which were abroad, he valued no more than the motes in the sun. But that the Parliament should now dispute his office under whose authority we were then met, was a great astonishment to him.

That he was unwilling to break privileges; but necessity had no law.

He told us, he had ordered the Parliament doors to be locked up and guarded, and had appointed an officer to take subscriptions to a recognition of his authority; which being done might give us an entrance. Which being said, we were dismissed about eleven o'clock.

His party, that is, courtiers and officers of the army, and some others, presently subscribed. Before they adjourned, which was about twelve of the clock, there were about one hundred subscriptions; which being entered, they sent for the Speaker, who came, subscribed, entered, and adjourned until two of the clock.

In the mean time, the rest of the members consulted one another's judgments. I went to see what it was that we were to subscribe unto. It was written in a long piece of parchment in these words, or to that effect, viz.:

"I do hereby freely promise and engage, that I will be true and faithful to the Lord Protector and the Commonwealth

of England, Scotland, and Ireland, and that according to the tenor of the indentures whereby I am returned to serve in this present Parliament, I will not propose, or consent to alter the government as it is settled in a sole person and the Parliament."

Our Norfolk members did not presently subscribe, saving only Mr. Frere, who instantly subscribed it. The rest of our members did most of us dine together, purposely to consult what was fittest to be done in so great an exigent, in order to the discharge of our trust. And, truly, the subscription was, in effect, no more than what we were restrained unto by our Indentures, and the thing would be done without us, and we had fairly contended for it: we had not given the question, but it was forced from us, and we were told that plainly it must be so. For these and several other considerations and reasons, which we thought ought to prevail with men preferring the peace of our countries and the safety of our people immediately concerned in this affair, before passions and humours, we thought fit rather to give way to the present necessity, and to comply with it by submitting than refusing. Accordingly we did subscribe, all except Mr. Woodhouse, Mr. Hobart, and Mr. Church. And although we condemn the breach of privilege as much as any, yet we doubt not but to acquit ourselves to God, and to our country, in so doing, rather than to put the nation into another combustion and confusion.

After we had subscribed, we went into the House, and after some expressions of tenderness and respects to our fellow members without, we adjourned until Thursday morning; the next day, Wednesday, being the Fast.

(An Account of the Parliament of 1654 from the Journal of Guibon Goddard, in Diary of Thomas Burton, ed. G. T. Ruth, Lond., 1828, vol. I, p. xxxii.)

169. Cromwell and the Kingship

Kennett

That Cromwell desired to be king seems, in this day, fully established. When matters had been so arranged that the crown seemed within his grasp, and while the voice of the army had not yet been raised to warn him that his acceptance of the kingship would lead to his overthrow, Cromwell took counsel with his intimates upon the wisdom of the step. The following account of his interview with Whitlock is most characteristic.

Upon this juncture Cromwell advises with Commissioner Whitlock how to maintain all things in order and obedience; "What if a man should take upon him to be King?" *Whit-*

lock, "I think that remedy would be worse than the disease." *Cromwell*, "Why do you think so?" *Whitlock*, "As to your own person the title of king would be of no advantage, because you have the full kingly power in you already concerning the militia, as you are general. As to the nomination of civil officers, those whom you think fittest are seldom refused: and altho' you have no negative vote in the passing of laws, yet what you dislike will not easily be carried; and the taxes are already settled and in your power to dispose the money raised. And as to foreign affairs, tho' the ceremonial application be made to the Parliament, yet the expectation of good or bad success in it is from your Excellency; and particular solicitations of foreign ministers are made to you only. So that I apprehend indeed less envy and danger and pomp, but not less power and real opportunities of doing good in your being general, than would be if you had assumed the title of king." *Cromwell* went on to argue, that whoever was actually king by election, the acts done by him were as lawful and justifiable as if done by a king who had the crown by inheritance; and that by an act of Parliament in Henry VII's time, it was safer for the people to act under a king (let his title be what it will) than under any other power.

Whitlock agreed to the legality, but questioned the expediency of it; and being asked what danger he apprehended, answered thus, "The danger I think would be this: one of the main points of controversy between us and our adversaries is whether the government of this nation shall be established in monarchy or in free state or a commonwealth; and most of our friends have engaged with us upon the hopes of having the government settled in a free state; and to effect that, have undergone all their hazards and difficulties. They being persuaded (tho' I think much mistaken) that under the government of a commonwealth they shall enjoy more liberty and right, both as to their spiritual and civil concerns than they shall under monarchy, the pressures and dislikes whereof are so fresh in their memories and sufferings. Now if your Excellency shall take upon you the title of king, this state of your cause will be thereby wholly determined, and monarchy established in your person, and the question will be no more, whether our government shall be by a monarch or by a free state, but whether *Cromwell* or *Stuart* shall be our king or monarch? And that question wherein before so great parties of the nation were engaged, and

which was universal, will by this means become in effect a private controversy only. Before it was national, what kind of government we should have? Now it will become particular, who shall be governour? Whether of the family of he Stuarts or of the family of the Cromwells? Thus the state of our controversy being totally changed, all those who were for a commonwealth (and they are a very great and considerable party) having their hopes therein frustrate, will desert you: your hands will be weakened, your interests straightened, and your cause in apparent danger to be ruined." Cromwell confessed he spoke reason, and desired to know if he could find any other expedient. Whitlock, after suggesting the danger he was in from his own officers and from the Parliament, who were plotting to bring him down, or to clip his wings, proceeded thus: "Pardon me, Sir, in the next place, a little to consider the condition of the King of Scots. This prince being now by your valour, and the success which God has given to the Parliament, and to the army under your command, reduced to a very low condition, both he and all about him cannot but be very inclinable to hearken to any terms, whereby their last hopes may be revived of his being restored to the crown, and they to their fortunes and native country. By a private treaty with him, you may secure yourself and your friends, and their fortunes: you may make yourself and posterity as great and permanent, to all human probability, as ever any subject was, and provide for your friends. You may put such limits to monarchical power, as will secure our spiritual and civil liberties: and you may secure the cause in which we are all engaged. And this may be effectually done, by having the power of the militia continued in yourself, and whom you shall agree upon after you."

Cromwell adjourned the discourse to some farther time, and went off with a countenance and carriage of displeasure. And Whitlock says, "That Cromwell's carriage toward him from that time was altered, and his advising with him not so frequent and intimate as before; and, that it was not long after, he found an occasion, by an honourable employment, to send him out of the way, that he might be no obstacle or impediment to his ambitious designs." For certainly Cromwell in his thoughts and intentions, was for bringing the crown upon his own head; and it was a great providence that his friends would not permit him to have his own way. However, to carry it as far as it would bear, he and his

officers were always complaining of the grievance of the Long Parliament, and were zealous and loud in recommending to the people the common pretences of right and justice, and public liberty, to put a period to their session; and if they would not shortly do it themselves, the army and the people must do it for them.

(*Compleat History of England*, ed. W. Kennett, 2nd ed., Lond., 1719, III, 204.)

170. Richard Cromwell becomes Lord Protector

Kennett

At the death of Oliver Cromwell, his son Richard was called to office. The following selection gives the proclamation made at the installation, and also gives a very valuable account of the character of the new ruler.

Whereas it has pleased the most wise God in his providence to take out of this world the most serene and renowned Oliver, late Ld. Protector of this Commonwealth: And his highness having in his life-time, according to the Humble Petition and Advice declared and appointed the most noble and illustrious the Lord Richard, eldest son of his late Highness, to succeed him in the government of these nations, we therefore of the Privy Council, together with the Lord-Mayor, aldermen and citizens of London, the officers of the army, and numbers of other principal gentlemen, do now hereby with one full voice and consent of tongue and heart, publish and declare the said noble and illustrious Lord Richard to be rightful Protector of this Commonwealth of England, Scotland and Ireland, and the dominions and territories thereto belonging: To whom we do acknowledge all fidelity and constant obedience, according to law, and the said Humble Petition and Advice, with all hearty and humble affections beseeching the Lord, by whom princes rule, to bless him with long life, and these nations with peace and happiness under his government.

(signed) Richard Chiverton, Mayor:
Henry Laurence, President.
And 27 others.

God save his Highness Richard Lord Protector.

Then the Council proceeded to give the oath of government to the new Protector, who published a proclamation for all officers to continue in their places; and the master of the ceremonies was ordered to acquaint all foreign ministers

with the death of the late Protector, and the succession of his son Richard; which soon brought over many new ambassadors and envoys from the neighbour princes and States, all admitted with due ceremony to a solemn audience given by his Highness, to condole the death of his father, and to congratulate his succession to the government; while infinite addresses came up from all parts of the three kingdoms, to compliment the new Protector with mighty professions of public joy and satisfaction, and with solemn resolutions and promises of adhering to him against all his enemies. And indeed the general exultation of the people and armies was so very great upon this new succession, that it must be imputed more to the common sense of deliverance from one tyrant, than to their hopes or expectations from this other Protector; who was raised to the government without any respect or good opinion in the minds of the people or the soldiers. For he had been neither a military man nor a statesman; rather an honest country gentleman, bred to privacy and sports, and willing to serve his neighbours, and even the cavaliers, by the little interest he had in his father's court. His own father seemed to have the least affection and lowest opinion of this son, among all his other children: He never trusted him in any command, nor employed him in any true business: He made him indeed Chancellor of Oxford, and put him at the top of the other House in Parliament: but this was rather for the honour of his family, than for the love of his son. He never let him into any secrets of policy nor any arts of war; and therefore it is plain, he never designed him for his successor, because he never trained him up to it.

(Kennett, ed. cit., III, p. 228.)

CHAPTER XXIII

THE RESTORATION

171. The Declaration of Breda

(April 4, 1660)

Parliamentary History

In the *Declaration of Breda* Charles II. set forth the principles on which he promised to rule England. The difference between these promises and their fulfilment presents an interesting study on the theory and practice of kingcraft.

Charles R.

Charles, by the grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, etc. To all our loving subjects, of what degree or quality soever, greeting.

If the general distraction and confusion which is spread over the whole kingdom doth not awaken all men to a desire and longing that those wounds which have so many years together been kept bleeding, may be bound up, all we can say will be to no purpose; however, after this long silence, we have thought it our duty to declare how much we desire to contribute thereunto; and that as we can never give over the hope, in good time, to obtain the possession of that right which God and nature hath made our due, so we do make it our daily suit to the Divine Providence, that He will, in compassion to us and our subjects after so long misery and sufferings, remit and put us into a quiet and peaceable possession of that our right, with as little blood and damage to our people as is possible; nor do we desire more to enjoy what is ours, than that all our subjects may enjoy what by law is theirs, by a full and entire administration of justice throughout the land, and by extending our mercy where it is wanted and deserved.

And to the end that the fear of punishment may not engage any, conscious to themselves of what is past, to a perseverance in guilt for the future, by opposing the quiet

and happiness of their country, in the restoration of King, Peers and people to their just, ancient and fundamental rights, we do, by these presents, declare, that we do grant a free and general pardon, which we are ready, upon demand, to pass under our Great Seal of England, to all our subjects, of what degree or quality soever, who, within forty days after the publishing hereof, shall lay hold upon this our grace and favour, and shall, by any public act, declare their doing so, and that they return to the loyalty and obedience of good subjects; excepting only such persons as shall hereafter be excepted by Parliament, those only to be excepted. Let all our subjects, how faulty soever, rely upon the word of a King, solemnly given by this present declaration, that no crime whatsoever, committed against us or our royal father before the publication of this, shall ever rise in judgment, or be brought in question, against any of them, to the least endamagement of them, either in their lives, liberties or estates, or (as far forth as lies in our power) so much as to the prejudice of their reputations, by any reproach or term of distinction from the rest of our best subjects; we desiring and ordaining that henceforth all notes of discord, separation and difference of parties be utterly abolished among all our subjects, whom we invite and conjure to a perfect union among themselves, under our protection, for the re-settlement of our just rights and theirs in a free Parliament, by which, upon the word of a King, we will be advised.

And because the passion and uncharitableness of the times have produced several opinions in religion, by which men are engaged in parties and animosities against each other (which, when they shall hereafter unite in a freedom of conversation, will be composed or better understood), we do declare a liberty to tender consciences, and that no man shall be disquieted or called in question for differences of opinion in matter of religion, which do not disturb the peace of the kingdom; and that we shall be ready to consent to such an Act of Parliament, as, upon mature deliberation, shall be offered to us, for the full granting that indulgence.

And because in the continued distractions of so many years, and so many and great revolutions, many grants and purchases of estates have been made to and by many officers, soldiers and others, who are now possessed of the same, and who may be liable to actions at law upon several titles, we are likewise willing that all such differences, and all things relating to such grants, sales and purchases, shall be deter-

mined in Parliament, which can best provide for the just satisfaction of all men who are concerned.

And we do further declare, that we will be ready to consent to any Act or Acts of Parliament to the purposes aforesaid, and for the full satisfaction of all arrears due to the officers and soldiers of the army under the command of General Monk; and that they shall be received into our service upon as good pay and conditions as they now enjoy.

Given under our Sign Manual and Privy Signet,
at our Court at Breda, this $\frac{4}{14}$ day of April,
1660, in the twelfth year of our reign.

(*Parliamentary History*, ed. cit., XXII, 238.)

172. Reception of the Declaration of Breda by Parliament

Parliamentary Intelligencer

Parliament's enthusiastic, if not servile, reception of the communication from Charles II. is in strong contrast to the actions of that body in the preceding decade. It may be questioned whether either body faithfully expressed the will of the majority of the people; but it was evident that the Commonwealth had proved a failure and that there was in the popular mind a strong loyalty to the House of Stuart. A king was the only means of reconciling the warring factions and Parliament recognized at once its necessity and opportunity.

RECEPTION OF THE DECLARATION OF BRED A BY THE LORDS

(May 1, 1660)

Whitehall, Tuesday. — The House of Lords being informed that Sir John Grenville attended at the door with a letter from his Majesty, the earl of Manchester, speaker to the House of Lords, went down near the clock to receive it of him. The letter with a declaration enclosed was read in the House, and thanks ordered to be given to Sir John Grenville for bringing the gracious letter.

The House resolved that they do own and declare that according to the ancient and fundamental laws of this kingdom, the government is and ought to be by king, lords, and commons. That the lords having a deep sense of the miseries and distractions that the kingdom hath been involved in since the violent attempts to dissolve the established government, do desire that some way may be considered how to make up these breaches; and to obtain the king's return again to his people.

(*Parliamentary Intelligencer*, no. 19, pp. 291, 292)

BY THE COMMONS

Resolved — *nemine contradicente*. That a committee be appointed to prepare an answer to his Majesty's letter, expressing the great and joyful sense of House of his gracious offers and their humble and hearty thanks to his Majesty for the same, and with professions of their loyalty and duty to his Majesty, and that this House will give a speedy answer to his Majesty's gracious proposals.

A committee was appointed accordingly.

Resolved — *nemine contradicente*.

That the sum of £50,000 be presented to his Majesty by the House.

Tuesday afternoon. — Resolved that this House doth agree with the lords and do own and declare, that according to the ancient and fundamental laws of this kingdom, the government is and ought to be by king, lords, and commons.

(*Parliamentary Intelligencer*, no. 19, p. 293.)

**173. The Commons thank Sir John Grenville for Bringing
the Declaration**

(May 3, 1660)

Mercurius Publicus

The words of the Speaker of the House of Commons merely voiced the thought of the nation. Beneath the exuberance of language lies the true spirit of loyalty. Throughout the period of the Commonwealth, the majority of Englishmen had clung to the hope that the king would yet come to his own.

**THE COMMONS THANK SIR JOHN GRENVILLE FOR BRINGING
THE DECLARATION**

Thursday. — The House being informed that Sir John Grenville was at the door, he was called in to receive the thanks of the House, which Mr. Speaker delivered, as followeth:

Sir John Grenville, — I need not tell you with what grateful and thankful hearts the Commons now assembled in Parliament have received his Majesty's gracious letter, *res ipsa loquitur*: you yourself have been *auricularis et ocularis testis de rei veritate*. Our bells and our bonfires have already begun the proclamation of his Majesty's goodness and of our joys. We have told the people that our king, the glory of England, is coming home again, and they have resounded it back again in our ears that they are ready and their hearts are open to receive him; both Parliament and people have

cried aloud in their prayers to the King of Kings, Long live king Charles the second!

(*Mercurius Publicus*, no. 19, p. 292.)

174. Resolutions of Parliament urging the King to Return

(May 8 and 9, 1660)

Tuesday. — At the House of Commons. Resolved, That the king's Majesty be desired to make a speedy return to his Parliament, and to the exercise of his kingly office.

Wednesday. — Ordered by the Lords and Commons that general Montague do receive the commands of the king's Majesty for the disposal of the fleet in order to his Majesty's return.

The Lords agreed to the vote for his Majesty's return to the Parliament and kingly office

(*Mercurius Publicus*, No. 19, p. 304.)

175. The Beginning of Cabinet Government

(1672)

Historian's Guide, Crook

The beginnings of Cabinet Government in England are to be found in the history of the secret council, — popularly called the Cabal, from the initials of the surnames of its members. — The selections next following will serve to awaken interest in the development of the Cabinet.

SHAFTESBURY, AS HEAD OF CABAL, TAKES GREAT SEAL

Nov. 4, 1672.

Sir Orlando Bridgeman, late Lord Keeper, having resigned by reason of his great age and a continual indisposition of body, the Great Seal went into the hands of his Majesty.

Nov. 17.

His Majesty was pleased to deliver the keeping of it to the Right Honourable Anthony Ashley Cooper, earl of Shaftesbury, with the title of Lord Chancellor of England.

(Crook, W., *Historian's Guide*, Lond. 1679.)

176. Opinion of French Court concerning Members of Cabal

Secret History of Whitehall

The ministers of this Court are not only the most inquisitive persons in the world into the affairs of other Courts, but even in the persons who manage them; whose natures, dispositions, religion, natural and acquired abilities, as well as respective infirmities, they endeavour to sift out

to the quick so that they may use them or shun them as they find occasion: and for this reason it is that they make some remarks upon them in their minutes, as well as upon the affairs transacted by them. And therefore since the five persons who made up the Cabal in England . . . , and who your lordship may remember were the dukes of Buckingham and Lauderdale, the earls of Shaftesbury and Arlington, and the Lord Treasurer Clifford, were very distinguishable for the stations they filled, the offices they held and the parts each of them acted in the government; I find this character given of them: for the duke of Buckingham, as he was the king's favourite, so he really deserved to be so, as being very capable to be a minister of state if his application to business had been answerable to his talents; if his mind, which was furnished with excellent endowments, had not been distracted by libertinism, which was in him to an extreme degree; and by a love to his pleasures, which made one of those persons in the world that was fittest for great and solid things vain and frivolous. Of the duke of Lauderdale there is little or nothing said but that he is a great and quaint politician, and no question but he has merited that character at their hand. Of my lord Clifford they are as profuse in their praises, as I doubt they have been too of their money; saying he was a person who wanted nothing but a theatre where virtue and reason had been much more in use than it was in his country in the age wherein he lived, for to be superior to and overtop the rest. My lord of Arlington they make to be a person of meaner capacity, and a more limited genius than any of the five, but say his experiences supply the defect, and have acquired him especially a very great knowledge of foreign affairs. Last of all, they bring in Anthony Ashley-Cooper, the renowned earl of Shaftesbury; of whom they say he was by far the fittest person of any of them to manage a great enterprise, and so was as the soul to all the rest, being endued with a vast capacity, clear judgment, bold nature, and subtle wit, equally firm and constant in all he undertook; a constant friend but an implacable enemy; with many other expressions, such as his not being terrified either with the greatness or the multitude of crimes he judges necessary for his own preservation, or the destruction of others much to his lordship's dishonour, which is a clear argument he was not for their interest, and for which he is much beholden to them.

(Letter in the Secret Hist. of Whitehall, Lond., 1717, vol. I., pp. 78, 79.)

177. The Habeas Corpus Act

(31 CAR. II, c. ii, 1679)

Statutes of the Realm

In the 39th and 40th clauses of the Magna Charta "are clearly contained the Habeas Corpus and the Trial by Jury, the most effectual securities against oppression which the wisdom of man has hitherto been able to devise." For centuries before, as for centuries after, the Great Charter, the abuses of judicial processes by the Crown led to complaint and discontent, which finally culminated in open rebellion. Again and again the kings broke their promises to abide by the law and to measure out that even-handed justice which the great documents of English history sought to secure for the people. At last, in 1679, the great Habeas Corpus Act was passed. It had radical defects, but these were remedied by the Bill of Rights (No. 100) and by an Act for More Effectually Securing the Liberty of the Subject (1812). The Habeas Corpus Act remains the basis of all legislation on its subject throughout English-speaking states.

An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonments beyond the Seas.

Whereas great delays have been used by sheriffs, gaolers, and other officers, to whose custody any of the king's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of *Habeas Corpus* to them directed, by standing out an *Alias* and *Pluries Habeas Corpus*, and sometimes more, and by other shifts to avoid their yielding obedience to such writs, contrary to their duty and the known laws of the land, whereby many of the king's subjects have been and hereafter may be long detained in prison, in such cases where by law they are bailable, to their great charges and vexation:

II. For the prevention whereof, and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters; be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority thereof, that whensoever any person or persons shall bring any *Habeas Corpus* directed unto any sheriff or sheriffs, gaoler, minister, or other person whatsoever, for any person in his or their custody, and the said writ shall be served upon the said officer, or left at the gaol or prison with any of the under-officers, under-keepers or deputy of the said officers or keepers, that the said officer or officers, his or their under-officers, under-keepers or deputies, shall within three days after the service

thereof as aforesaid (unless the commitment aforesaid were for treason or felony, plainly and specially expressed in the warrant of commitment) upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same, and endorsed upon the said writ, not exceeding twelve pence per mile, and upon security given by his own bond to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge to which he shall be brought according to the true intent of this present act, and that he will not make any escape by the way, make return of such writ; and bring or cause to be brought the body of the party so committed or restrained, unto or before the Lord Chancellor, or Lord Keeper of the great seal of England for the time being, or the judges or barons of the said court from whence the said writ shall issue, or unto and before such other person or persons before whom the said writ is made returnable, according to the command therof; and shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days, and if beyond the distance of one hundred miles, then within the space of twenty days, after the delivery aforesaid, and not longer.

III. And to the intent that no sheriff, gaoler or other officer may pretend ignorance of the import of any such writ; be it enacted by the authority aforesaid, that all such writs shall be marked in this manner, *per statutum tricesimo primo Caroli secundi regis*, and shall be signed by the person that awards the same; and if any person or persons shall be or stand committed or detained as aforesaid, for any crime, unless for treason or felony plainly expressed in the warrant of commitment, in the vacation-time, and out of term, it shall and may be lawful to and for the person or persons so committed or detained (other than persons convict or in execution) by legal process or any one on his or their behalf, to appeal or complain to the Lord Chancellor or Lord Keeper, or any one of his Majesty's justices, either of the one bench or of the other, or the barons of the exchequer of the degree of the coif; and the said Lord Chancellor, Lord Keeper, justices or barons or any of them, upon view of the copy or copies of the warrant or warrants of commitment and de-

tainer, or otherwise upon oath made that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, are hereby authorized, and required, upon request made in writing by such person or persons or any on his, her or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *Habeas Corpus* under the seal of such court whereof he shall then be one of the judges, to be directed to the officer or officers in whose custody the party so committed or detained shall be, returnable immediate before the said Lord Chancellor or Lord Keeper, or such justice, baron or any other justice or baron of the degree of the coif of any of the said courts; and upon service thereof as aforesaid, the officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers, or their deputy, in whose custody the party is so committed or detained, shall within the times respectively before limited, bring such prisoner or prisoners before the said Lord Chancellor or Lord Keeper, or such justices, barons or one of them, before whom the said writ is made returnable, and in case of his absence before any of them, with the return of such writ, and the true causes of the commitment and detainer; and thereupon within two days after the party shall be brought before them, the said Lord Chancellor or Lord Keeper, or such justice or baron before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to their discretions, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the court of king's bench the term following, or at the next assizes, sessions, or general gaol-delivery of and for such county, city, or place where the commitment was, or where the offence was committed, or in such other court where the said offence is properly cognizable, as the case shall require, and then shall certify the said writ with the return thereof, and the said recognizance or recognizances into the said court where such appearance is to be made; unless it shall appear unto the said Lord Chancellor or Lord Keeper, or justice or justices, or baron or barons, that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices or barons, or some justice or justices of the

peace, for such matters or offences for the which by the law the prisoner is not bailable.

IV. Provided always, and be it enacted, that if any person shall have wilfully neglected by the space of two whole terms after his imprisonment, to pray a *Habeas Corpus* for his enlargement, such person so wilfully neglecting shall not have any *Habeas Corpus* to be granted in vacation-time, in pursuance of this act.

V. And be it further enacted by the authority aforesaid, that if any officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers, or deputy, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner or person in his behalf, shall refuse to deliver, or within the space of six hours after demand shall not deliver, to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they are hereby required to deliver accordingly; all and every the head gaolers and keepers of such prisons, and such other person in whose custody the prisoner shall be detained, shall for the first offence forfeit to the prisoner or party grieved the sum of one hundred pounds; and for the second offence the sum of two hundred pounds, and shall and is hereby made incapable to hold or execute his said office; the said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint, or information, in any of the king's courts at Westminster, wherein no essoin, protection, privilege, injunction, wager of law, or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed, or any more than one imparlance; and any recovery or judgment at the suit of any party grieved, shall be a sufficient conviction for the first offence; and any after recovery or judgment at the suit of a party grieved for any offence after the first judgment, shall be a sufficient conviction to bring the officers or person within the said penalty for the second offence.

VI. And for the prevention of unjust vexation by reiterated commitments for the same offence; be it enacted by the authority aforesaid, that no person or persons which shall be delivered or set at large upon any *Habeas Corpus*, shall at any time hereafter be again imprisoned or committed for

the same offence by any person or persons whatsoever, other than by the legal order and process of such court wherein he or they shall be bound by recognizance to appear, or other court having jurisdiction of the cause; and if any other person or persons shall knowingly contrary to this act recommit or imprison, or knowingly procure or cause to be recommitted or imprisoned, for the same offence or pretended offence, any person or persons delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved the sum of five hundred pounds; any colourable pretence or variation in the warrant or warrants of commitment notwithstanding, to be recovered as aforesaid.

VII. Provided always, and be it further enacted, that if any person or persons shall be committed for high treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or first day of the sessions of Oyer and Terminer or general gaol-delivery, to be brought to his trial, shall not be indicted some time in the next term, sessions of Oyer and Terminer or general gaol-delivery, after such commitment; it shall and may be lawful to and for the judges of the court of king's bench and justices of Oyer and Terminer or general gaol-delivery, and they are hereby required, upon motion to them made in open court the last day of the term, sessions or gaol-delivery, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail, unless it appears to the judges and justices upon oath made, that the witnesses for the king could not be produced the same term, sessions or general gaol-delivery; and if any person or persons committed as aforesaid, upon his prayer or petition in open court the first week of the term or first day of the sessions of Oyer and Terminer or general gaol-delivery, to be brought to his trial, shall not be indicted and tried the second term, sessions of Oyer and Terminer or general gaol-delivery, after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

VIII. Provided always, that nothing in this act shall extend to discharge out of prison any person charged in debt, or other action, or with process in any civil cause, but that after he shall be discharged of his imprisonment for such his criminal offence, he shall be kept in custody according to the law, for such other suit.

IX. Provided always, and be it enacted by the authority

aforesaid, that if any person or persons, subject of this realm, shall be committed to any prison or in custody of any officer or officers whatsoever, for any criminal or supposed criminal matter, that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers; unless it be by *Habeas Corpus* or some other legal writ; or where the prisoner is delivered to the constable or other inferior officer to carry such prisoner to some common goal: or where any person is sent by order of any judge of assize or justice of the peace to any common workhouse or house of correction; or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial or discharge in due course of law; or in case of sudden fire or infection, or other necessity; and if any person or persons shall after such commitment aforesaid make out and sign, or countersign any warrant or warrants for such removal aforesaid, contrary to this act; as well he that makes or signs, or countersigns such warrant or warrants as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this act before mentioned, both for the first and second offence respectively, to be recovered in manner aforesaid by the party grieved.

X. Provided also, and be it further enacted by the authority aforesaid, that it shall and may be lawful to and for any prisoner and prisoners as aforesaid, to move and obtain his or their *Habeas Corpus* as well out of the high court of chancery or court of exchequer, as out of the courts of king's bench or common pleas, or either of them; and if the said Lord Chancellor or Lord Keeper, or any judge or judges, baron or barons for the time being, of the degree of the coif, of any of the courts aforesaid, in the vacation-time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath made that such copy or copies were denied as aforesaid, shall deny any writ of *Habeas Corpus* by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved the sum of five hundred pounds, to be recovered in manner aforesaid.

XI. And be it enacted and declared by the authority aforesaid, that an *Habeas Corpus* according to the true intent and meaning of this act, may be directed and run into any county palatine, the cinque-ports, or other privileged places within the kingdom of England, dominion of Wales, or town of

Berwick upon Tweed, and the islands of Jersey or Guernsey; any law or usage to the contrary notwithstanding.

XII. And for preventing illegal imprisonments in prisons beyond the seas; be it further enacted by the authority aforesaid, that no subject of this realm that now is, or hereafter shall be an inhabitant or resiant of this kingdom of England, dominion of Wales, or town of Berwick upon Tweed, shall or may be sent prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier, or into parts, garrisons, islands or places beyond the seas, which are or at any time hereafter shall be within or without the dominions of his Majesty, his heirs or successors; and that every such imprisonment is hereby enacted and adjudged to be illegal; and that if any of the said subjects now is or hereafter shall be so imprisoned, every such person and persons so imprisoned, shall and may for every such imprisonment maintain by virtue of this act an action or actions of false imprisonment, in any of his Majesty's courts of record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner or transported, contrary to the true meaning of this act, and against all or any person or persons that shall frame, contrive, write, seal or countersign any warrant or writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding or assisting in the same, or any of them; and the plaintiff in every such action shall have judgment to recover his treble costs, besides damages, which damages so to be given, shall not be less than five hundred pounds; in which action no delay, stay or stop of proceeding by rule, order or command, nor no injunction, protection or privilege whatsoever, nor any more than one imparlance shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule; and the person or persons who shall knowingly frame, contrive, write, seal or countersign any warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison or transport any person or persons contrary to this act, or be any ways advising, aiding or assisting therein, being lawfully convicted thereof, shall be disabled from thenceforth to bear any office of trust or profit within the said realm of England, dominion of Wales, or town of Berwick upon Tweed, or any of the islands, territories or dominions thereunto belonging; and shall incur and sustain the pains, penalties, and forfeitures limited, ordained

and provided in and by the statute of Provision and *Præmunire* made in the sixteenth year of King Richard the Second; and be incapable of any pardon from the king, his heirs or successors, of the said forfeitures, losses, or disabilities, or any of them.

XIII. Provided always, that nothing in this act shall extend to give benefit to any person who shall by contract in writing agree with any merchant or owner of any plantation, or other person whatsoever, to be transported to any parts beyond the seas, and receive earnest upon such agreement, although that afterwards such persons shall renounce such contract.

XIV. Provided always, and be it enacted, that if any person or persons lawfully convicted of any felony, shall in open court pray to be transported beyond the seas, and the court shall think fit to leave him or them in prison for that purpose, such person or persons may be transported into any parts beyond the seas; this act, or anything therein contained to the contrary notwithstanding.

XV. Provided also, and be it enacted, that nothing herein contained shall be deemed, construed or taken, to extend to the imprisonment of any person before the first day of June one thousand six hundred seventy and nine, or to anything advised, procured, or otherwise done, relating to such imprisonment; anything herein contained to the contrary notwithstanding.

XVI. Provided also, that if any person or persons at any time resident in this realm, shall have committed any capital offence in Scotland or Ireland, or any of the islands, or foreign plantations of the king, his heirs or successors, where he or she ought to be tried for such offence, such person or persons may be sent to such place, there to receive such trial, in such manner as the same might have been used before the making of this act; anything herein contained to the contrary notwithstanding.

XVII. Provided also, and be it enacted, that no person or persons shall be sued, impleaded, molested or troubled for any offence against this act, unless the party offending be sued or impleaded for the same within two years at the most after such time wherein the offence shall be committed, in case the party grieved shall not be then in prison; and if he shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen.

XVIII. And to the intent no person may avoid his trial at the assizes or general gaol-delivery, by procuring his removal before the assizes, at such time as he cannot be brought back to receive his trial there; be it enacted, that after the assizes proclaimed for that county where the prisoner is detained, no person shall be removed from the common gaol upon any *Habeas Corpus* granted in pursuance of this act, but upon any such *Habeas Corpus* shall be brought before the judge of assize in open court, who is thereupon to do what to justice shall appertain.

XIX. Provided nevertheless, that after the assizes are ended, any person or persons detained, may have his or her *Habeas Corpus* according to the direction and intention of this act.

XX. And be it also enacted by the authority aforesaid, that if any information, suit or action shall be brought or exhibited against any person or persons for any offence committed or to be committed against the form of this law, it shall be lawful for such defendants to plead the general issue, that they are not guilty, or that they owe nothing, and to give such special matter in evidence to the jury that shall try the same, which matter being pleaded had been good and sufficient matter in law to have discharged the said defendant or defendants against the said information, suit or action, and the said matter shall be then as available to him or them, to all intents or purposes, as if he or they had sufficiently pleaded, set forth or alleged the same matter in bar or discharge of such information, suit or action.

XXI. And because many times persons charged with petty treason or felony, or as accessaries thereunto, are committed upon suspicion only, whereupon they are bailable, or not, according as the circumstances making out that suspicion are more or less weighty, which are best known to the justices of peace that committed the persons, and have the examinations before them, or to other justices of peace in the county: be it therefore enacted, that where any person shall appear to be committed by any judge or justice of the peace, and charged as accessory before the fact, to any petty treason, or felony, or upon suspicion thereof, or with suspicion of petty treason or felony, which petty treason or felony shall be plainly and specially expressed in the warrant of commitment, that such person shall not be removed or bailed by virtue of this act, or in any other manner than they might have been before the making of this act.

178. James II. and the Catholics

Foley

James II. was a fervid Catholic, and most anxious to further the promulgation of that faith with the realm. Indeed, his extreme enthusiasm in the cause of his Church cost him dearly. The following letter, though bearing evidence of a natural optimism and perhaps self-persuasion, yet presents a vivid picture of the status of the Catholic religion in England at the time when the close of the Stuart dynasty was drawing near. If the words of the king were not exactly as quoted by the chronicler, there is no reason to doubt that their spirit did not vary from the account given.

LETTER FROM A JESUIT OF LIEGE TO A BROTHER OF HIS AT
FRIBURG

February 1686-7.

It is wonderful to see King James' great affection to our Society. He wished prosperity to this whole College, by the Reverend Father the Provincial, and earnestly recommended himself to our prayers. Upon Father John Keynes return into England, he gave him a most gracious reception (while earls and dukes were commanded for some hours to wait for admittance), with whom, in the Queen's presence, he discoursed with all familiarity. He asked him how many candidates for Order he had, and how many students? And upon the Provincial's answer to his Majesty, who was very urgent with him: That of the former, and of the latter he had above fifty. He replied: There would be occasion for double or treble that number, to effect what he designed for that Society's performance, and ordered that they should be all exercised in the art of preaching. "For now," said he, "England has need of such."

I do not doubt but you have heard that the king, writing to Father de la Chaise, the French King's confessor, concerning the affairs of the house among the Walloons, declared that whatever was done to the English Fathers of that house he would look upon as done to himself. Father Clare, Rector of the same house, being arrived at London to treat of that matter, got an easy access to the King, and as easily gained his point. The King himself forbid him to kneel and kiss his hand, according to custom, saying: "Reverend Father, you have indeed once kissed my hand; but, if I had known then, as I do now, that you were a priest, I would rather myself, Father, have kneeled down and kissed your hand." After he had finished his business, in a familiar conversation, his Majesty told this Father: That he would either convert Eng-

land, or die a martyr; and he had rather die the next day and convert it, than reign twenty years piously and happily and not effect it. Finally, he called himself a "son of the Society, of whose good success," he said, "he was glad as of his own." And it can scarcely be expressed how much gratitude he showed when it was told him: That he was made partaker, by our very Reverend Provincial, of all the merits of the Society out of which he is to nominate one for his confessor; but hitherto it is not known who it will be. Some report that it will be the Reverend Father Provincial, but still there is no certainty of that. Many are of opinion that Father Edward R. Petre, who is chiefly in favour with the King, will obtain an archbishopric, but more believe it will be a Cardinal's cap. To him has been granted, within this month or two, all that part of the Palace in which the King used to reside, when he was Duke of York, where there is not a day but you may see I know not how many courtiers waiting to speak to his "Eminence," for so they say he is called. For the King advises with him, and with many Catholic lords, who have the chief places in the kingdom, to find a method to propagate the faith without violence. Not long since, some of these lords objected to the King: That they thought he made too much haste to establish the faith. To whom he answered: "I am growing old, and must take large steps, else, if I should happen to die, I might perhaps leave you in a worse condition than I found you." When they asked him: Why then was he so little concerned about the conversion of his daughters, who were the heirs of the kingdom? he answered: God will take care of that; leave the conversion of my daughters to me. Do you, by your example, convert your tenants and others to the faith."

He has Catholic Lord Lieutenants in most counties; and we shall shortly have Catholic Justices of the Peace in almost all places. We hope also that our affairs will have good success at Oxford. In the public chapel of our Vice-Chancellor, who is a Catholic, there is always one of our divines, who has converted some of the students to the faith. The Bishop of Oxford himself seems to be a great favourer of the Catholic faith, he proposed to the Council: "Whether it did not seem to be expedient that at least one College should be granted to the Catholics at Oxford, that they might not be forced to study beyond sea, at such great expenses." But it is not yet known what answer he had. The same Bishop, having invited two of our brethren together with

some of his nobility, drank the King's health to a certain "heretic lord who was in company": Wishing his Majesty good success in all his undertakings: adding also, That the religion of the Protestants in England did not seem to him in a better condition than Buda was before it was taken; and that they were next to atheists that defended that faith. Many embrace the true religion, and four of the most considerable earls have lately made public profession of it. Father Alexander Keynes, the Provincial's nephew, to whom is committed the care of the chapel belonging to the Elector of Palatine's Envoy, is continually taken up in solving and answering the questions of heretics who doubt of their faith, of whom you may see two or three together walking by the chapel door, continually disputing about some point of religion. As to Prince George, it is yet uncertain what religion he professes. We gradually begin to get footing in England. We teach human learning [humanities] at Lincoln, Norwich, and York; and at Worcester we have a public chapel protected by a guard of the King's soldiers; and we are to buy some houses in the town of Wigan, Lancashire. The Catholic interest grows very strong, and at some churches granted to the Catholics upon holidays there are often counted fifteen hundred present at the sermon. At London, also, our business is carried on with the same good success. Sermons are preached upon every holiday, and there are so many that frequent the chapels, that they are not big enough to hold them. Two of our Society, Dormer and Bertue, preach continually before the King and Queen; Father Edward Neville, before the Queen Dowager; Father Alexander Keynes in the chapel aforesaid; others in other chapels. There are many houses bought in the Savoy near Somerset House, which is the Queen Dowager's Palace, towards the erecting of the first College in London for about eighteen thousand florins; and they are hard at work to bring them to the form of a College, that a school may be opened before Easter.

A Catholic Lord Lieutenant is shortly to go over to Ireland, because the King cannot be satisfied with any other to establish the Catholic interest in that kingdom. The Parliament will certainly sit in this month of February, of whom his Majesty is resolved to ask three things: First, that by a general Act all the Catholic peers shall be admitted to sit in the Upper House; secondly, that the Test may be abolished; and thirdly, which is the chief point, that all penal

laws against Catholics should be abrogated. And that he may the better obtain these things he designs to let them all know: That he is resolved to turn out all those who will not heartily act for the obtaining of them; and likewise dissolve the Parliament. At which resolution some heretics being terrified, came to a certain earl to advise with him what might be done; to whom he answered: "The King's mind is sufficiently known; what he has once said, he will certainly perform. If you love yourselves, submit to the King's pleasure." There is to be a great preparation of war at London, and a fleet of above one hundred men of war is to be fitted out against the spring, but against whom it is uncertain. The Dutch are under great apprehensions, but for what reason, although they are said to make an armament, time will discover.

(*Records of the English Province of the Society of Jesus*, ed. H. Foley, Lond., 1879. V, 157.)

179. The Last Appeal

Kennett

In the year 1688 the affairs of the kingdom had come to such a pass that James II., becoming alarmed for his throne because of threatened invasion, resolved to radically reform his administration. On Wednesday, October 3, the Archbishop of Canterbury and various members of the higher clergy, upon the king's invitation, presented to the monarch the following address:

1. Our first humble advice is, that Your Majesty will be graciously pleased to put the management of your government in the several counties, into the hands of such of the nobility and gentry there, as are legally qualified for it.

2. That Your Majesty will be graciously pleased to annul your Commission for Ecclesiastical Affairs, and that no such court (as that Commission sets up) may be erected for the future.

3. That Your Majesty will graciously be pleased, that no dispensation may be granted or continued, by virtue whereof any person, not duly qualified by law, hath been, or may be put into any place, office or preferment, in church or state, or in the universities, or continued in the same; especially such as have cure of souls annexed to them; And in particular, that you will be graciously pleased to restore the president and fellows of St. Mary Magdalen College in Oxford.

4. That Your Majesty will graciously be pleased to set aside all licenses or faculties already granted, by which any persons of the Romish communion may pretend to be enabled

to teach public schools; and that no such be granted for the future.

5. That Your Majesty will be graciously pleased to desist from the exercise of such a dispensing power, as hath of late been used; and to permit that point to be freely and calmly debated and argued, and finally settled in Parliament.

6. That Your Majesty will be graciously pleased to inhibit the four foreign bishops, who style themselves Vicars Apostolical, from further invading the ecclesiastical jurisdiction, which is by law vested in the bishops of this church.

7. That Your Majesty will be pleased graciously to fill the vacant bishoprics, and other ecclesiastical promotions within your gift, both in England and Ireland, with men of learning and piety; and in particular, (which I must own to be my peculiar boldness, for 'tis done without the privity of my brethren) that you will be graciously pleased forthwith to fill the Archiepiscopal Chair of York (which has so long stood empty, and upon which a whole province depends) with some very worthy person: for which (pardon me, Sir, if I am bold to say) you have now here before you a very fair choice.

8. That Your Majesty will be graciously pleased to supersede all further prosecution of Quo Warranto's against corporations, and to restore to them their ancient charters, privileges, and franchises, as we hear God has put into Your Majesty's heart to do for the City of London, which we intended to have made otherwise one of our principal requests.

9. That if it please Your Majesty, writs may be issued out with convenient speed, for the calling of a free and regular Parliament, in which the church of England may be secured according to the Acts of Uniformity; provision may be made for a due liberty of conscience, and for securing the liberties and properties of all your subjects; and a mutual confidence and good understanding may be established between Your Majesty and all your people.

10. Above all, That Your Majesty will be graciously pleased to permit your bishops to offer you such motives and arguments, as (we trust) may, by God's grace, be effectual to persuade Your Majesty to return to the communion of the Church of England, into whose most Holy Catholic faith you were baptized, and in which you were educated, and to which it is our daily earnest prayer to God, that you may be reunited.

PART VII

ENGLAND A CONSTITUTIONAL
MONARCHY

CHAPTER XXIV

"THE GLORIOUS REVOLUTION"

180. A Memorial from the Church of England to the Prince of Orange

(1688)

The encroachments of James upon the religious liberties of the people at last made the situation one impossible of continuance. There seemed to be no remedy but the second deposition of a Stuart. In this crisis, the people turned their gaze to the Prince of Orange, the one Protestant who had any claim of succession, though this claim was only by marriage. The clergy were especially solicitous that he should come to the aid of the Protestant faith, and to this end sent him the following earnest appeal for countenance and protection.

Your Royal Highness cannot be ignorant that the Protestants of England, who continue true to their religion and government established by law, have been many ways troubled and vexed by restless contrivances and designs of Papists, under pretence of the royal authority, and things required of them unaccountable before God and man: Ecclesiastical benefits and preferments taken from them, without any other reason but the King's pleasure: That they have been summoned and sentenced by ecclesiastical commissioners, contrary to law, deprived of their birth-right in the free choice of their magistrates and representatives; divers corporations dissolved, the legal security of our religion and liberty, established and ratified by King and Parliament, annulled and overthrown by a pretended dispensing power: New and unheard-of maxims have been preached, as if subjects had no right but what depends on the King's will and pleasure; The militia put into the hands of persons not qualified by law, and a popish mercenary army maintained in the kingdom in time of peace, absolutely contrary to the law; the execution of the law against several high crimes and misdemeanors superseded and prohibited: The statutes against correspondence with the court of Rome, papal jurisdiction,

and popish priests, suspended: That in courts of justice, those judges are displaced, who dare acquit them whom the King would have condemned; as happened to the judges Powel and Holloway, for acquitting the seven bishops: Liberty of chusing members of Parliament (notwithstanding all the care taken, and provision made by law on that behalf) wholly taken away, by Quo Warrantos served against corporations and the three known questions: All things carried on in open view for the propagation and growth of Popery, for which the courts of England and France have so long jointly laboured, with so much application and earnestness: Endeavours to persuade your Royal Highnesses to liberty of conscience, and abrogating the penal laws and tests; wherein they fell short of their aim.

That they most humbly implore the protection of your Royal Highnesses, as to the suspending and encroachments made upon law, for maintenance of the Protestant religion, our civil and fundamental rights and privileges: And that your Royal Highnesses would be pleased to insist, that the free Parliament of England, according to law, may be restored; the laws against Papists, priests, papal jurisdiction, etc. put in execution, and the suspending and dispensing power declared null and void; the rights and privileges of the City of London, the free choice of their magistrates, and the liberties as well of that as of other corporations restored, and all things returned to their ancient channel, etc.

(Kennett, ed. cit., III, 517.)

181. The Prince of Orange Reorganizes the Government

(Dec. 23, 1688)

After the flight of James, England was without a legal government. The Prince of Orange, after due invitation, proceeded to organize the administration. His first act was to provide for the calling of a Parliament, which he did in the following document.

Whereas the necessity of affairs does require speedy advice; We do desire all such persons as have served as knights, citizens or burgesses, in any of the Parliaments that were held during the reign of the late K. Charles II. to meet Us at St. James's, on Wednesday the 26th of this instant December, by ten of the clock in the morning. And We do likewise desire, that the Lord-Mayor and Court of Aldermen of the City of London would be present at the same time: And that the Common-Council would appoint fifty of their

number to be there likewise. And hereof we desire 'em not to fail.

Given at St. James's, the 23d of December, 1688.

W. H. Prince of Orange.

(Kennett, ed. cit., III, 538.)

182. The Lords Invite William to Undertake the Government

The first step toward the foundation of a free Parliament was taken when the Prince of Orange summoned the Commons to confer with him (No. 181). The next step was taken by the Lords. They met at Westminster on Dec. 25, 1688, and formally invited William to undertake the government of England until the first meeting of Parliament.

We, the Lords Spiritual and Temporal, assembled in this conjuncture, do desire your Highness to take upon you the administration of the public affairs, both civil and military, and the disposal of the public revenue, for the preservation of our religion, rights, laws, liberties, and properties, and of the peace of the nation: And that your Highness will take into your particular care, the present condition of Ireland; and endeavor, by the most effectual means, to prevent the dangers threatening that kingdom. All which, we make our request to your Highness to undertake and exercise, till the meeting of the intended convention, the 22d of January next. In which, we doubt not, such proper methods will be taken, as will conduce to the establishment of these things upon such sure and legal foundations, that they may not be in danger of being again subverted.

Dated at the House of Lords, Westm. Dec. 25th, 1688.

(Kennett, ed. cit., III, 539.)

183. The Manner of Summoning Parliament

On Christmas Day, 1688, the Lords at Westminster drew up a second address containing suggestions as to the method for summoning and electing members of the Parliament to be held on the 22d of January, 1689.

We, the Lords Spiritual and Temporal, assembled at Westminster in this extraordinary conjuncture, do humbly desire your Highness to cause letters to be written, subscribed by yourself, to the Lords Spiritual and Temporal (being Protestants;) and to the several counties, universities, cities,

boroughs, and cinque-ports of England, Wales, and Town of Berwick upon Twede. The letters for the counties, to be directed to the coroners of the respective counties or any one of them; and in default of the coroners, to the clerk of the Peace, of the respective counties: And the letters for the universities, to be directed to every Vice-Chancellor: And the letters to the several cities, boroughs, and cinque-ports, to be directed to the chief magistrate of each respective city, borough, and cinque-port; containing directions for the choosing, in all such counties, cities, universities, boroughs, and cinque-ports, within ten days after the receipt of the respective letters, such a number of persons to represent them, as are of right to be sent to Parliament: Of which elections, and the times and places thereof, the respective officers shall give notice, within the space of five days at the least. Notice of the intended elections for the counties, to be published in the churches, immediately after the time of divine service; and in all market-towns within the respective counties: And notice of the intended elections for the cities, universities, boroughs, and cinque-ports, to be published within the said respective places. The said letters, and the execution thereof, to be returned, by such officer and officers who shall execute the same, to the Clerk of the Crown in the Court of Chancery; so as the persons so to be chosen, may meet and sit at Westminster, on the two and twentieth day of January next.

Dated at the House of Lords, Westm. Dec. 25, 1688.

(Kennett, ed. cit., III, 539.)

184. Answer of the Prince to the Suggestions of the Lords

(Dec. 28, 1688)

In a brief but comprehensive address the Prince assured the Lords that he favourably regarded their suggestions concerning the method of calling Parliament together.

I have considered of your advice; and, as far as I am able, I will endeavour to secure the peace of the nation, until the meeting of the convention in January next; for the election thereof, I will forthwith issue out letters, according to your desire. I will also take care to apply the public revenue to the most proper uses that the present affairs require: And likewise endeavour to put Ireland into such a condition, as that the Protestant religion, and the English interests, may be maintained in that Kingdom. And I further assure you, That as I came hither for the preservation of the Protestant

religion, and the laws and liberties of these kingdoms; so I shall always be ready to expose myself to any hazard, for the defense of the same.

(Kennett, ed. cit., III, 540.)

185. William of Orange to the Commons

(Dec. 26, 1688)

In accordance with the invitation of the Prince of Orange (No. 181) members of the Commons' House of the Parliaments held during the reign of Charles II., and the Lord Mayor and court of the City of London, as well as representatives of the Common Council of the City of London, gathered for the purpose of forming a Parliament. The Prince briefly addressed them, and authorized them to carry out the purpose of their meeting.

You gentlemen that have been members of the late Parliaments, I have desired you to meet me here, to advise the best manner how to persue the ends of my declaration, in calling a free Parliament, for the preservation of the Protestant religion, and the restoring the rights and liberties of the kingdom, and settling the same, that they may not be in danger of being again subverted.

And you the aldermen and members of the Common-Council of the City of London, I desire the same of you. And in regard your numbers are like to be great, you may, if you think fit, divide yourselves, and sit in several places.

(Kennett, ed. cit., III, 539.)

186. The Commons Answer the Prince

(Dec. 26, 1688)

Upon receipt of the command (No. 185) the Commons unanimously consented to proceed with the organization of parliamentary government. They thanked the Prince for undertaking the care of the kingdom, and suggested methods for calling the Parliament together.

We who have served as members of the Parliaments during the reign of the late King Charles II. together with the Court of Aldermen, and members of the Common-Council of the City of London, assembled at Your Highness's desire (in this extraordinary conjuncture), do, with an unanimous consent, tender to your Highness our humble and hearty thanks, for your coming in this kingdom, and exposing your person to so great hazards, for the preservation of our religion, laws, and liberties, and rescuing us from the miseries of popery and slavery: And desire your Highness, that

(in pursuance of those ends, and for the preservation of the peace of the nation) your Highness will take upon you the administration of public affairs, both civil and military, and the disposal of the public revenue.

We do also desire, That your Highness will take into your particular care, the present condition of Ireland; and endeavour, by the most speedy and effectual means, to prevent the dangers threatening that kingdom.

All which, we desire your Highness to undertake and execute, until the meeting of the intended convention, the 22d day of January next...

[Suggestions as to summoning Parliament follow. They are almost identical with those of the Lords. No. 183.]

(Kennett, ed. cit., III, 539.)

187. The Prince's Address to Parliament

'On Tuesday, January 22, 1688-9, the Lords Spiritual and Temporal, and Commons, assembled at Westminster: the Lord Marquis of Halifax, executed the place of Speaker in the House of Lords, and the Commons chose Henry Powle, Esq., to be their speaker. After which this letter from the Prince of Orange was read in both Houses on the occasion of their meeting.'

I have endeavoured, to the utmost of my power, to perform what was desired from me, in order to the public peace and safety, and I do not know that any thing hath been omitted, which might tend to the preservation of them, since the administration of affairs was put into my hands. It now lieth upon you to lay the foundations of a firm security for your religion, your laws, and your liberties.

I do not doubt, but that by such a full and free representative of the nation, as is now met, the ends of my declaration will be attained: And since it hath pleased God hitherto to bless my good intentions with so good success; I trust in Him, that we will complete His own work, by sending a spirit of peace and union, to influence your counsels, that no interruption may be given to an happy and lasting settlement.

The dangerous condition of the Protestants in Ireland, require a large and speedy succour; and the present state of things abroad, oblige me to tell you, that next to the danger of unseasonable divisions amongst yourselves, nothing can be so fatal, as too great a delay in your consultations. The states, by whom I have been enabled to rescue this nation, may suddenly feel the ill effects of it, both by being too long

deprived of the service of their troops, which are now here, and of your early assistance against a powerful enemy, who hath declared war against them. And as England is by treaty already engaged to help them upon such exigencies, so I am confident that their cheerful concurrence to preserve this kingdom with so much hazard to themselves, will meet with all the returns of friendship and assistance, which may be expected from you as Protestants and Englishmen, whenever their condition shall require it.

(Kennett, ed. cit., III, 541.)

188. The Parliamentary Title of the Sovereigns of England

(Feb. 13, 1688)

The era of Kingship by Divine Right passed with the fugitive Stuart. Once again in England the principle of an elective Kingship was vindicated. The title of William and Mary plainly rested upon parliamentary action, and since 1688 the Sovereigns of England have had in the will of the people a sure foundation for their thrones. The determination of William to be the sole executive head of the nation,—a determination that prohibited the co-sovereignty of Mary,—is clearly shown in the act conferring the crown upon him.

The said Lords Spiritual and Temporal, and Commons assembled at Westminster, do Resolve:

That William and Mary, Prince and Princess of Orange be, and be declared King and Queen of England, France, and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and Dominions, to them the said Prince and Princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the royal power be only in, and executed by the said Prince of Orange, in the names of the Prince and Princess during their lives; And after their deceases, the said crown and royal dignity of the said kingdoms and dominions to the heirs of the body of the said Princess; And for default of such issue, to the Princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of the said Prince of Orange.

And the said Lords Spiritual and Temporal, and Commons, do pray the said Prince and Princess of Orange to accept the same accordingly.

REPLY OF THE KING

My Lords and Gentlemen:

This is certainly the greatest proof of the trust you have

in me that can be given, which is the thing that makes us value it the more: And as I had no other intention in coming hither, than to preserve your religion, laws, and liberties, so you may be sure, that I shall endeavour to support them, and shall be willing to concur in anything that shall be for the good of the kingdom, and to do all that is in my power to advance the welfare and glory of the nation.

(Kennett, ed. cit., III, 548.)

189. The Bill of Rights

(1 W. & M. S. 2, c. 2, 1689)

Statutes of the Realm

Among the great constitutional documents the Bill of Rights, passed in October, 1689, ranks with the Magna Charta. On this great Act Macaulay says: "The Declaration of Right, though it made nothing law which had not been law before, contained the germ of the law which gave religious freedom to the Dissenter, of the law which secured the independence of the judges, of the law which limited the duration of parliaments, of the law which placed the liberty of the press under the protection of juries, of the law which prohibited the slave trade, of the law which abolished the sacramental test, of the law which relieved the Roman Catholics from civil disabilities, of the law which reformed the representative system, of every good law which has been passed during more than a century and a half, of every good law which may hereafter, in the course of ages, be found necessary to promote the public weal, and to satisfy the demands of public opinion."

AN ACT DECLARING THE RIGHTS AND LIBERTIES OF THE SUBJECT AND SETTLING THE SUCCESSION OF THE CROWN

Whereas the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully, and freely representing all the estates of the people of this realm, did, upon the thirteenth day of February, in the year of our Lord one thousand six hundred eighty-eight, present unto their Majesties, then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing, made by the said Lords and Commons, in the words following; viz:—

Whereas the late King James II., by the assistance of diverse evil counsellors, judges, and ministers employed by him, did endeavour to subvert and extirpate the Protestant religion, and the laws and liberties of this kingdom:—

1. By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of Parliament.

2. By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the same assumed power.

3. By issuing and causing to be executed a commission under the Great Seal for erecting a court, called the Court of Commissioners for Ecclesiastical Causes.

4. By levying money for and to the use of the Crown, by pretence of prerogative, for other time, and in other manner than the same was granted by Parliament.

5. By raising and keeping a standing army within this kingdom in time of peace, without consent of Parliament, and quartering soldiers contrary to law.

6. By causing several good subjects, being Protestants, to be disarmed, at the same time when Papists were both armed and employed contrary to law.

7. By violating the freedom of election of members to serve in Parliament.

8. By prosecutions in the Court of King's Bench, for matters and causes cognizable only in Parliament; and by diverse other arbitrary and illegal courses.

9. And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on juries in trials, and particularly diverse jurors in trials for high treason, which were not freeholders.

10. And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

11. And excessive fines have been imposed.

12. And illegal and cruel punishments inflicted.

13. And several grants and promises made of fines and forfeitures, before any conviction or judgment against the persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.

And whereas the said late King James II. having abdicated the government, and the throne being thereby vacant, his Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the Lords Spiritual and Temporal, and diverse principal persons of the Commons) cause letters to be written to the Lords Spiritual and Temporal, being Protestants, and other letters to the several counties, cities, universities, boroughs, and cinque ports, for the choosing of such persons

to represent them, as were of right to be sent to Parliament, to meet and sit at Westminster upon the two-and-twentieth day of January, in this year one thousand six hundred eighty and eight, in order to such an establishment, as that their religion, laws and liberties might not again be in danger of being subverted; upon which letters, elections have been accordingly made.

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done), for the vindicating and asserting their ancient rights and liberties, declare:—

1. That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.

2. That the pretended power of dispensing with laws, or the execution of laws by regal authority, as it hath been assumed and exercised of late, is illegal.

3. That the commission for erecting the late Court of Commissioners for Ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

4. That levying money for or to the use of the Crown, by pretence of prerogative, without grant of parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal.

6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law.

7. That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law.

8. That election of members of parliament ought to be free.

9. That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

10. That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

11. That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.

12. That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.

13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties:

II. The said Lords Spiritual and Temporal, and Commons, assembled at Westminster, do resolve, that William and Mary, Prince and Princess of Orange, be, and be declared, King and Queen of England, France, and Ireland, and the dominions thereunto belonging, to hold the Crown and royal dignity of the said kingdoms and dominions to them the said Prince and Princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by, the said Prince of Orange, in the names of the said Prince and Princess, during their joint lives; and after their deceases, the said Crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said Princess; and for default of such issue to the Princess Anne of Denmark, and the heirs of her body and for default of such issue to the heirs of the body of the said Prince of Orange. And the Lords Spiritual and Temporal, and Commons, do pray the said Prince and Princess to accept the same accordingly.

III. And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law, instead of them; and that the said oaths of allegiance and supremacy be abrogated.

I, A. B., do sincerely promise and swear, That I will be faithful and bear true allegiance to their Majesties King William and Queen Mary:

So help me God.

I, A. B., do swear, That I do from my heart, abhor, detest, and abjure as impious and heretical, that damnable doctrine and position, that Princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority ecclesiastical or spiritual, within this realm:

So help me God.

IV. Upon which their said Majesties did accept the Crown and royal dignity of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said Lords and Commons contained in the said declaration.

V. And thereupon their Majesties were pleased, that the said Lords Spiritual and Temporal, and Commons, being the two Houses of Parliament, should continue to sit, and with their Majesties' royal concurrence make effectual provision for the settlement of the religion, laws, and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted; to which the said Lords Spiritual and Temporal, and Commons, did agree and proceed to act accordingly.

VI. Now in pursuance of the premises, the said Lords Spiritual and Temporal, and Commons, in parliament assembled, for the ratifying, confirming, and establishing the said declaration, and the articles, clauses, matters, and things therein contained, by the force of a law made in due form by authority of parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration, are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their Ma-

esties and their successors according to the same in all times to come.

VII. And the said Lords Spiritual and Temporal, and Commons, seriously considering how it hath pleased Almighty God, in his marvellous providence, and merciful goodness to this nation, to provide and preserve their said Majesties' royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto Him from the bottom of their hearts their humblest thanks and praises, do truly, firmly, assuredly, and in the sincerity of their hearts, think, and do hereby recognize, acknowledge, and declare, that King James II. having abdicated the government, and their Majesties having accepted the Crown and royal dignity aforesaid, their said Majesties did become, were, are, and of right ought to be, by the laws of this realm, our sovereign liege Lord and Lady, King and Queen of England, France, and Ireland, and the dominions thereunto belonging, in and to whose princely persons the royal State, Crown, and dignity of the same realms, with all honours, styles, titles, regalities, prerogatives, powers, jurisdictions and authorities to the same belonging and appertaining, are most fully, rightfully, and entirely invested and incorporated, united and annexed.

VIII. And for preventing all questions and divisions in this realm, by reason of any pretended titles to the Crown, and for preserving a certainty in the succession thereof, in and upon which the unity, peace, tranquillity, and safety of this nation doth, under God, wholly consist and depend, the said Lords Spiritual and Temporal, and Commons, do beseech their Majesties that it may be enacted, established, and declared, that the Crown and regal government of the said kingdoms and dominions, with all and singular the premises thereunto belonging and appertaining, shall be and continue to their said Majesties, and the survivor of them, during their lives, and the life of the survivor of them. And that the entire, perfect, and full exercise of the regal power and government be only in, and executed by, his Majesty, in the names of both their Majesties during their joint lives; and after their deceases the said Crown and premises shall be and remain to the heirs of the body of her Majesty: and for default of such issue, to her Royal Highness the Princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of his said Majesty: and thereunto the said Lords Spiritual and Temporal, and

Commons, do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities, for ever: and do faithfully promise, That they will stand to, maintain, and defend their said Majesties, and also the limitation and succession of the Crown herein specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

IX. And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this Protestant kingdom, to be governd by a Popish prince, or by any king or queen marrying a Papist, the said Lords Spiritual and Temporal, and Commons, do further pray that it may be enacted, That all and every person and persons that is, are, or shall be reconciled to, or shall hold communion with, the See or Church of Rome, or shall profess the Popish religion, or shall marry a Papist, shall be excluded, and be for ever incapable to inherit, possess, or enjoy the Crown and government of this realm, and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise any regal power, authority, or jurisdiction within the same; and in all and every such case or cases the people of these realms shall be and are hereby absolved of their allegiance; and the said Crown and Government shall from time to time descend to, and be enjoyed by, such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the said person or persons so reconciled, holding communion, or professing, or marrying as aforesaid, were naturally dead.

X. And that every king and queen of this realm, who at any time hereafter shall come to succeed in the Imperial Crown of this kingdom, shall, on the first day of the meeting of the first parliament, next after his or her coming to the Crown, sitting in his or her throne in the House of Peers, in the presence of the Lords and Commons therein assembled, or at his or her coronation, before such person or persons who shall administer the coronation oath to him or her, at the time of his or her taking the said oath (which shall first happen), make, subscribe, and audibly repeat the declaration mentioned in the statute made in the thirtieth year of the reign of King Charles II., intituled 'An Act for the more effectual preserving the King's person and government, by disabling Papists from sitting in either House of Parliament.' But if it shall happen, that such king or queen, upon his or

her succession to the Crown of this realm, shall be under the age of twelve years, then every such king or queen shall make, subscribe, and audibly repeat the said declaration at his or her coronation, or the first day of the meeting of the first parliament as aforesaid, which shall first happen after such king or queen shall have attained the said age of twelve years.

XI. All which their Majesties are contented and pleased shall be declared, enacted, and established by authority of this present parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

XII. And be it further declared and enacted by the authority aforesaid, That from and after this present session of parliament, no dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of parliament.

XIII. Provided that no charter, or grant, or pardon granted before the three-and-twentieth day of October, in the year of our Lord One thousand six hundred eighty-nine, shall be any ways impeached or invalidated by this act, but that the same shall be and remain of the same force and effect in law, and no other, than as if this act had never been made.

(Ed. from *Statutes of the Realm*, VI, 142-145.)

190. The Act of Settlement

(12 & 13 WILL. III, 1700)

Statutes of the Realm

The Act of Settlement, or Act of Succession, became a law on June 12, 1701. HALLAM says of this important statute that it is "the seal of our constitutional laws, the complement of the Revolution itself and the Bill of Rights, and the last great statute which restrains the power of the Crown."

AN ACT FOR THE FURTHER LIMITATION OF THE CROWN, AND
BETTER SECURING THE RIGHTS AND LIBERTIES OF THE
SUBJECT

Whereas in the first year of the reign of your Majesty, and of our late most Gracious Sovereign Lady Queen Mary (of

blessed memory) an Act of Parliament was made, intituled "An Act for declaring the Rights and Liberties of the Subject, and for settling the Succession of the Crown," wherein it was (amongst other things) enacted, established and declared, That the Crown and Regal Government of the kingdoms of England, France and Ireland, and the dominions thereunto belonging, should be and continue to your Majesty and the said late Queen, during the joint-lives of your Majesty and the said Queen, and to the survivor: And that after the decease of your Majesty and of the said Queen, the said Crown and Regal Government should be and remain to the heirs of the body of the said late Queen: And for default of such issue, to her Royal Highness the Princess Anne of Denmark, and the heirs of her body: And for default of such issue, to the heirs of the body of your Majesty. And it was thereby further enacted, That all and every person and persons that then were, or afterwards should be reconciled to, or shall hold communion with the See or Church of Rome, or should profess the Popish religion, or marry a Papist, should be excluded, and are by that act made for ever incapable to inherit, possess, or enjoy the Crown and Government of this realm and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise any regal power, authority, or jurisdiction within the same: and in all and every such case and cases the people of these realms shall be and are thereby absolved of their allegiance: And that the said Crown and Government shall from time to time descend to and be enjoyed by such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the said person or persons, so reconciled, holding communion, professing, or marrying as aforesaid, were naturally dead. After the making of which statute, and the settlement therein contained, your Majesty's good subjects, who were restored to the full and free possession and enjoyment of their religion, rights, and liberties, by the providence of God giving success to your Majesty's just undertakings and unwearied endeavours for that purpose, had no greater temporal felicity to hope or wish for, then to see a royal progeny descending from your Majesty, to whom (under God) they owe their tranquillity, and whose ancestors have for many years been principal assertors of the reformed religion and the liberties of Europe, and from our said most Gracious Sovereign Lady, whose memory will always be precious to the subjects of

these realms: And it having since pleased Almighty God to take away our said Sovereign Lady, and also the most hopeful Prince William Duke of Gloucester (the only surviving issue of her Royal Highness the Princess Anne of Denmark) to the unspeakable grief and sorrow of your Majesty and your said good subjects, who under such losses being sensibly put in mind, that it standeth wholly in the pleasure of Almighty God to prolong the lives of your Majesty and of her Royal Highness, and to grant to your Majesty, or to her Royal Highness, such issue as may be inheritable to the Crown and regal Government aforesaid, by the respective limitations in the said recited Act contained, do constantly implore the Divine Mercy for those blessings: and your Majesty's said subjects having daily experience of your royal care and concern for the present and future welfare of these kingdoms, and particularly recommending from your Throne a further provision to be made for the succession of the Crown in the Protestant line, for the happiness of the nation, and the security of our religion; and it being absolutely necessary for the safety, peace and quiet of this realm, to obviate all doubts and contentions in the same, by reason of any pretended titles to the Crown, and to maintain a certainty in the succession thereof, to which your subjects may safely have recourse for their protection, in case the limitations in the said recited Act should determine: Therefore for a further provision of the succession of the Crown in the Protestant line, we your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, do beseech your Majesty that it may be enacted and declared, and be it enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the most Excellent Princess Sophia, Electress and Duchess Dowager of Hanover, daughter of the most Excellent Princess Elizabeth, late Queen of Bohemia, daughter of our late Sovereign Lord King James I, of happy memory, be and is hereby declared to be the next in succession, in the Protestant line, to the Imperial Crown and dignity of the said realms of England, France and Ireland, with the dominions and territories thereunto belonging, after his Majesty, and the Princess Anne of Denmark, and in default of issue of the said Princess Anne, and of his Majesty respectively: And that from and after the deceases of his

said Majesty, our now Sovereign Lord, and of her Royal Highness the Princess Anne of Denmark, and for default of issue of the said Princess Anne, and of his Majesty respectively, the Crown and regal Government of the said kingdoms of England, France and Ireland, and of the dominions thereunto belonging, with the royal state and dignity of the said realms, and all honours, stiles, titles, regalities, prerogatives, powers, jurisdictions and authorities, to the same belonging and appertaining, shall be, remain, and continue to the said most Excellent Princess Sophia, and the heirs of her body, being Protestants: And thereunto the said Lords Spiritual and Temporal, and Commons, shall and will, in the name of all the people of this realm, most humbly and faithfully submit themselves, their heirs and posterities; and do faithfully promise that after the deceases of his Majesty, and her Royal Highness, and the failure of the heirs of their respective bodies, to stand to, maintain, and defend the said Princess Sophia, and the heirs of her body, being Protestants, according to the limitation and succession of the Crown in this Act specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

II. Provided always, and it is hereby enacted, That all and every person and persons, who shall or may take or inherit the said Crown, by virtue of the limitation of this present Act, and is, are or shall be reconciled to, or shall hold communion with, the See or Church of Rome, or shall profess the Popish religion, or shall marry a Papist, shall be subject to such incapacities, as in such case or cases are by the said recited Act provided, enacted, and established; and that every King and Queen of this realm, who shall come to and succeed in the Imperial Crown of this kingdom, by virtue of this Act, shall have the Coronation Oath administered to him, her or them, at their respective Coronations, according to the Act of Parliament made in the first year of the reign of his Majesty, and the said late Queen Mary, intituled, 'An Act for establishing the Coronation Oath,' and shall make, subscribe, and repeat the Declaration in the Act first above recited mentioned or referred to, in the manner and form thereby prescribed.

III. And whereas it is requisite and necessary that some further provision be made for securing our religion, laws and liberties, from and after the death of his Majesty and the Princess Anne of Denmark, and in default of issue of the

body of the said Princess, and of his Majesty respectively: Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same,

That whosoever shall hereafter come to the possession of this Crown, shall join in communion with the Church of England, as by law established.

That in case the Crown and imperial dignity of this realm shall hereafter come to any person, not being a native of this kingdom of England, this nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England, without the consent of Parliament.

That no person who shall hereafter come to the possession of this Crown, shall go out of the dominions of England, Scotland, or Ireland, without consent of Parliament.

That from and after the time that the further limitation by this Act shall take effect, all matters and things relating to the well governing of this kingdom, which are properly cognizable in the Privy Council by the laws and customs of this realm, shall be transacted there, and all resolutions taken thereupon shall be signed by such of the Privy Council as shall advise and consent to the same.

That after the said limitation shall take effect as aforesaid, no person born out of the kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although he be naturalised or made a denizen, except such as are born of English parents), shall be capable to be of the Privy Council, or a Member of either House of Parliament, or to enjoy any office or place of trust, either civil or military, or to have any grant of lands, tenements or hereditaments from the Crown, to himself or to any other or others in trust for him.

That no person who has an office or place of profit under the King, or receives a pension from the Crown, shall be capable of serving as a Member of the House of Commons.

That after the said limitation shall take effect as aforesaid, Judges' Commissions be made *Quamdiu se bene gesserint*, and their salaries ascertained and established; but upon the Address of both Houses of Parliament it may be lawful to remove them.

That no pardon under the Great Seal of England be pleadable to an impeachment by the Commons in Parliament.

IV. And whereas the Laws of England are the birthright of the people thereof, and all the Kings and Queens, who shall ascend the Throne of this realm, ought to administer the Government of the same according to the said laws, and all their officers and ministers ought to serve them respectively according to the same: The said Lords Spiritual and Temporal, and Commons, do therefore further humbly pray, That all the Laws and Statutes of this realm for securing the established religion, and the rights and liberties of the people thereof, and all other Laws and Statutes of the same now in force, may be ratified and confirmed, and the same are by his Majesty, by and with the advice and consent of the said Lords Spiritual and Temporal, and Commons, and by authority of the same, ratified and confirmed accordingly.

(*Statutes of the Realm*, VII, 636-638.)

191. The Jesuits in England under William

Henry Humbertson

The striking contrast between this letter and No. 178, written but thirteen years before, is the best illustration of the radical change in the status of the Catholics effected by the revolution of 1688. The disabilities then imposed on Catholics were not destined to be removed for over a century. The letter is from the Rev. Henry Humbertson, Rector of St. Omer's College, to the Very Rev. Father General of the Society of Jesus.

LETTER FROM THE FATHER PROVINCIAL TO THE FATHER GENERAL OF THE SOCIETY OF JESUS

St. Omer, 10th April, 1700.

Very Reverend Father in Christ,

P. C.

It is deemed unsafe to write to your Paternity from England, and this is the reason of my long silence. Being now in Belgium I take the opportunity of writing to acquaint your Paternity in the first place that a great persecution is about to be raised in England. The Parliament which, so long as it stood in need of the aid of the Catholic princes in the war against the King of France and their own Sovereign (James II.), restrained itself for the time, now that the motive for dissimulation is removed, has resumed its accustomed practices, and, besides reviving the ancient penal laws, both Houses have passed a new one, of which the following are the principal heads:

I. If any Catholic Bishop, priest, or Jesuit be apprehended in this kingdom after the 25th of March, 1700, and shall be convicted of having exercised any episcopal or sacerdotal functions whatever, he shall be imprisoned for life in some place in England, to be assigned by the King. The informer is to receive a reward of £100 sterling (about 400 Roman scudi). Also, if any one shall open a school for the education of children, or shall afford any means of doing so in his own house, without first taking the oath of allegiance and supremacy, he shall be condemned to the same punishment.

II. After the 29th of September, 1700, every Catholic attaining the age of eighteen must within six months after attaining that age take the said oath, abjuring his faith and embracing the national religion; in default of which he shall be incapable of inheriting or of possessing any goods, honours, or titles whatever, and during such his refusal his inheritance, etc., shall pass to, and be held and enjoyed by his nearest Protestant relation, without being liable to account for the same (except in case of wilful waste).

III. After the 10th of April, 1700, every Catholic shall be incapable of either buying or selling any lands, possessions, or hereditaments whatever within the kingdom; and all titles and contracts of every kind, under which property shall be bought or sold, shall be null and void.

IV. Whoever shall send a son or daughter or any ward into foreign parts for education in the Roman Catholic religion shall be fined in the sum of £100 sterling, and whereas the statute of I. James I. awarded one half that fine to be paid to the Treasury and the other half to the informer, now, to intensify the exertions of the informer, the whole fine is allotted to them by way of reward.

V. In order that Protestant sons or daughters born of Catholic parents may not be compelled to follow their parents' religion against their conscience for want of the means of support, it is enacted that in case such parents refuse to find them support proper to their state, the Lord Chancellor, upon the petition of any such child, shall order some scheme whereby the second clause of the act may be applied to them.

This act having passed both Houses of Parliament only awaits the assent of the Prince of Orange, who is now king, to give it the force of law, and this there is no doubt of his giving. A persecution is hence anticipated, exceeding any that has been experienced since heresy took root in England. No act of Parliament more calculated to root out the Catholic

faith in England was ever enacted, and, unless it pleases God to hinder its execution, it will be impossible for religion long to exist in the kingdom. I have ordained public prayers throughout the whole Province to implore the Divine protection. I entreat your Paternity likewise to recommend the unhappy condition of our country to the Holy Sacrifices and prayers of the whole Society, and that they will remember me also,

Your Very Rev. Paternity's
Most obedient servant in Christ,
Henry Humberston.

(Records of the English Province of the Society of Jesus, ed. cit., V.)

192. Dissenters in the Eighteenth Century

Chamberlayne

The student should not lose sight of the fact that for a thousand years after the coming of the Anglo-Saxons as for centuries before, the Church of Rome was the Church in England. Following the establishment of the Church of England in the reign of Henry VIII a variety of sects contended with the State Church for place and power. Much of the history of the later Tudors and the Stuarts finds its impulses in the dissensions of sectaries. Despite constant and stringent measures looking to uniformity of worship, dissent continued and increased. The following selection well illustrates the theological divisions of the people after the Revolution of 1688.

The inhabitants of this land, being a sensible and civilized people, are generally much addicted to religion; and whereas, in those countries where the Roman Catholic religion is national, ignorance is the mother of devotion, people of the best parts being least affected with a religion; so, contrary to reason, here in England those who are of the best capacities are generally most devout; and again, the devoutest men of this church are always the best moralists, which shows their devotion to be unfeigned and without hypocrisy; but the greatest blemish to religion amongst us is the pitiable number of dissenters from the Established Church, some prejudiced by education, some by sensuality, some by interest, and some few by misguided zeal; for, having repented of their former ill courses, whilst they call themselves members of the Church of England, they think they cannot thoroughly change their lives without changing their religion too, becoming, like stray sheep, an easy prey to the next claimer.

If we divide the people of England into 60 parts, perhaps

five of them are such dissenters of all sorts who never come to the public services of the national church.

Two parts who hold communion with the national Church and with their own particular sect at the same time, as occasion or opportunity offers. These are a foolish and inconsiderate people, who are little valued by either side by reason of their inconsistency and prevarication with God and man, especially if it appears to be done upon a selfish and temporal account.

Three parts are these who being in constant communion with the Church of England, seldom or never joining openly with any other, seem nevertheless somewhat displeased with the Church, and the only reason they continue in it is because they are more displeased with every sect of the dissenters from it: for they acknowledge this to be the best form of religion in the country; but this they (having new schemes in their heads) would reform or refine.

The most understanding of this sort of men have a political thirst after such a reformation, in hope by that means to comprehend many of the more moderate dissenters, and to bring them into communion with the national Church; and such a design was set on foot in the beginning of this government in convocation, where all things of that nature are first to be debated; but few of the dissenters at that time showing any willingness to be so comprehended, and some of the heads of them counselling ingeniously that all such attempts would prove successless, without quite dissolving our frame of church government, the whole business fell.

And instead thereof, all Protestant dissenters from the Church (except Antitrinitarians) are tolerated so long as they live peaceably and conformably in the state, and every man in England doth now enjoy a free liberty of conscience and use of what religion best pleases him.

The dissenters from the Church of England are of these five sorts: Libertines, Papists, Anabaptists, Independents, and Presbyterians.

First, By *Libertines* we mean those that live *ad libitum*, whether they be Atheists, Sceptics, Deists, and the like; of these there are not many amongst us, at leastwise professedly so, and those that be, are a vain, fanatic, unthinking people, some of whom having a little smattering of learning, are troublesome with it to themselves and the rest of mankind. These men have some superficial knowledge in second causes, but, for want of due consideration, they are al-

together ignorant of the first Mover and of his revealed will . . .

The number of *Jews* and *Socinians* amongst us is still more inconsiderable.

Secondly, *Papists* we have many, yet not so many but that in the late government, when they all appeared publicly, it was, and is, a wonder how the designs of that handful of men could put the whole nation into such convulsions . . .

3. Anabaptists are of two sorts: First, those who go vulgarly by that name; and, secondly, those who are distinguished by the name of Quakers.

The *Anabaptists* which go by that name are a more reasonable sort here in England than those of Flanders and Germany; very few of ours are so wild, extravagant, and enthusiastical as those abroad. These submit themselves to civil government; and the chief article of their dissent in religion, is concerning *Pædobaptism*, which they hold unreasonable. Yet there is in many other things some of the Flemish leaven still among them, as accounting themselves the only pure church; are envious at the Established Church; abhor paying of tithes, and affect parity: but that which is worst of all, some of them have strange notions concerning our blessed Saviour and his Incarnation, the Holy Trinity, the soul of man, etc. Some of these, as well as Quakers, are great admirers of Jacob Behmen and his sort of cant; and many of them are closely wrapped up in Rosicrusian Divinity; they look upon all liturgy and ceremonies as popish, allow that laymen may administer sacraments, expect an universal monarchy of Christ here on earth. Some of them are called Brownists, from Robert Brown of Northamptonshire, but there are some Brownists who allow of Pædobaptism. Familists, or the Family of Love, we have scarce any remaining: Adamites none. But here are some Antimonians who hold that no transgression is sin in the "children of God": Traskitts, now called Seventh-day men, who keep the Jewish Sabbath: Antisabbatarians, who keep none at all; and the Muggletonians are scarce extinct, who say that God the Father, leaving the government of Heaven to Elias, came down on Earth and suffered in human form; these deny the Holy Trinity, the creation of earth and water, the immortality of the soul, religious ministry, and, some of them, magistratual authority.

Quakers. The other sort of Anabaptists are called Quakers or Shakers, from the trembling and quaking caused in them

by vapors in their ecstatic fits, especially after long fasting, an exercise very much practised by the first disciples of this sect here in England, but of late almost wholly dis-used...

They reject ministerial ordinances, and place religion wholly in the inward light of every man's private spirit; and how different soever the impulses of one man's spirit are from another, and how different notions soever they create, they account it all the same light infused by the Spirit of God in different measures and degrees. They agree with other Anabaptists against infant baptism, and go far beyond them, even to the neglecting of all baptism, and the other sacrament of the Eucharist, all human learning, appropriate places and times of worship, and abhor paying of tithes. They practised formerly abstinence and self-denial, but now of late none are prouder or more luxurious than the generality of them: they formerly wore plain and coarse clothes, now the men wear very fine cloth, and are distinguished from others only by a particular shaping of their coats, a little pleated cravat, and a slender hat-band; the women nevertheless wear flowered, or striped, or damask silks, and the finest linen cut and pleated in imitation of lace, but they wear no lace or superfluous ribbons; however, they are extremely nice in their choice of tailors, seamstresses, and laundresses. Those of the men who wear periwigs have them of genteel hair and shape, tho' not long. They are as curious in their meats, and as cheerful in their drink, and as soft in their amours, and as much in the enjoyment of life as others.

They have generally denied the Trinity of Persons in the one Godhead, the resurrection of the body, the Incarnation of Christ (which they seem to look upon as a figure) the locality of heaven and hell, and many other Catholic tenets.

Independents. Independents are a sect lately sprung up from the Brownists. These have no general church government, but each particular congregation is ruled by their own laws and methods without dependence on one another: look upon tithes as superstitious and Judaical; are against all set form of prayer, even the Lord's Prayer. They give power to private men to erect and gather churches, elect, ordain, depose, excommunicate, and determine finally in all church-causes. Laity sometimes administer the sacraments, and magistrates administer the office of matrimony. They are most of them Millenaries, and commence the last thousand

years of Christ's kingdom from the beginning of Independence. All those of the laity they account "gifted men," are permitted to preach, and pray, and to catechise the preacher concerning the doctrine he has preached. They communicate frequently, sitting at a table or without a table.

Presbyterians. Presbyterians maintain that there is only a nominal difference between bishop, presbyter, and pastor; and that priest is not a gospel word, but belongs only to sacrifices. They will not allow deacons to preach, but only to collect for and administer to the poor. In every church they appoint lay-elders and rulers, who are to inspect men's manners and to bear a part in the government of the church. They acknowledge a priority of order ought to be amongst church-governours, but not a priority of jurisdiction. They deny the civil magistrate any authority in church government, making the king *mere Laicus*, and subject to the censures of parochial church-governours. They have two church judicatories, the classical assembly and the general assembly, to which there lies an appeal from the classical.

When we speak of any of these sectaries indiscriminately, we call them dissenters and nonconformists; and they that speak more freely term them fanatics and enthusiasts. It must be confessed that in all these sects there are some good moral men, nay, some of them zealous towards God, but in such a zeal as is not according to knowledge. Neither are they all equally blameable in all respects. The Presbyterians come nearest to the Church; the Quakers are the most peaceable; the Papists are the most mannerly, and the like;...

(*Angliæ Notitia*, E. Chamberlayne, Lond. 20th, ed. 1703, 255.)

CHAPTER XXV

UNION BETWEEN ENGLAND AND SCOTLAND

193. The Queen's Speeches on Union of England and Scotland

Oldmixon.

The strife of centuries was brought to a close by the union of England and Scotland. Queen Anne publicly expressed the hope that the two peoples would become firmly united into one great nation, and JOHN R. GREEN, in his *History of the English People*, thus comments upon her words: "Time has more than answered these hopes. The two nations whom the Union brought together have ever since remained one. England gained in the removal of a constant danger of treason and war. To Scotland the Union opened up new avenues of wealth which the energy of the people turned to wonderful account. The farms of Lothian have become models of agricultural skill. A fishing-town on the Clyde has grown into the rich and populous Glasgow. Peace and culture have changed the wild clansmen of the Highlands into herdsmen and farmers. Nor was the change followed by any loss of national spirit. The world has hardly seen a mightier and more rapid development of national energy than that of Scotland after the Union. All that passed away was the jealousy which had parted since the days of Edward the First two peoples whom a common blood and common speech proclaimed to be one. The Union between Scotland and England has been real and stable simply because it was the legislative acknowledgment and enforcement of a national fact."

(Jan. 28th, 1707.)

My Lords and Gentlemen,

Having acquainted you at the opening of this session, that the treaty for an Union between England and Scotland, which had been concluded here by the commissioners appointed for that purpose, in pursuance of the powers given by the Parliaments of both kingdoms, was then under the consideration of the Parliament of Scotland, I can now, with great satisfaction, inform you that the said treaty has been ratified by Act of Parliament in Scotland with some additions and alterations.

I have directed the treaty agreed to by the commissioners of both kingdoms, and also the Act of Ratification from Scotland, to be laid before you, and I hope it will meet with your concurrence and approbation.

Gentlemen of the House of Commons,

It being agreed by this treaty, that Scotland is to have an equivalent for what that kingdom is obliged to contribute towards paying the debts of England. I must recommend to you, that in case you agree to the treaty you would take care to provide for the payment of the equivalent to Scotland accordingly.

My Lords and Gentlemen,

You have now an opportunity before you of putting the last hand to a happy Union of the two kingdoms, which I hope will be a lasting blessing to the whole Island, a great addition to its wealth and power, and a firm security to the Protestant religion. The advantages which will accrue to us all from an Union are so apparent that I will add no more, but that I shall look upon it as a particular happiness, if this great work, which has been so often attempted without success, can be brought to perfection in my reign.

(March 6th, 1707.)

My Lords and Gentlemen,

It is with the greatest satisfaction that I have given my assent to a Bill for uniting England and Scotland into one kingdom.

I consider this Union as a matter of the greatest importance to the wealth, strength, and safety of the whole Island, and at the same time, as a work of so much difficulty and nicety in its own nature, that till now all attempts, which have been made towards it in the course of above a hundred years, have proved ineffectual; and therefore I make no doubt but it will be remembered and spoken of hereafter to the honour of those who have been instrumental in bringing it to such a happy conclusion.

I desire and expect from all my subjects of both nations, that from henceforth they act with all possible respect and kindness to one another, that so it may appear to all the world, they have hearts disposed to become one people. This will be a great pleasure to me, and will make us all quickly sensible of the good effect of this Union.

And I cannot but look upon it as a peculiar happiness, that in my reign so full a provision is made for the peace and quiet of my people, and for the security of our religion, by so firm an establishment of the Protestant succession throughout Great Britain.

Gentlemen of the House of Commons,

I take this occasion to remind you to make effectual provision for the payment of the equivalent to Scotland within the time appointed by this Act, and I am persuaded you will show as much readiness in this particular as you have done in all the other parts of this great work.

My Lords and Gentlemen,

The season of the year being now pretty far advanced, I hope you will continue the same zeal which has appeared throughout this session, in despatching what yet remains unfinished of the public business before you.

(The History of England, Oldmixon, Lond. 1739. III. p. 383-386.)

194. Union between England and Scotland

(5 ANNE, c. 8, 1707)

Collection of Statutes, Evans

AN ACT FOR AN UNION OF THE TWO KINGDOMS OF ENGLAND AND SCOTLAND

(*Preamble*)

ARTICLE I

THAT the two kingdoms of England and Scotland shall upon the first day of May, which shall be in the year one thousand seven hundred and seven, and for ever after, be united into one kingdom by the name of Great Britain; and that the ensigns' armorial of the said united kingdom be such as her Majesty shall appoint, and the crosses of St. George and St. Andrew be conjoined in such manner as her Majesty shall think fit, and used in all flags, banners, standards, and ensigns, both at sea and land.

ARTICLE II

That the succession of the monarchy of the united kingdom of Great Britain, and of the dominions thereto belonging, after her most sacred Majesty, and in default of issue of her Majesty, be, remain, and continue to the most excellent Prin-

cess Sophia, electoress and duchess dowager of Hanover, and the heirs of her body being Protestants, upon whom the Crown of England is settled by an Act of Parliament made in England in the twelfth year of the reign of his late Majesty King William the Third, entitled, *An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject*: And that all Papists, and persons marrying Papists, shall be excluded from, and for ever incapable to inherit, possess, or enjoy the Imperial Crown of Great Britain, and the dominions thereunto belonging, or any part thereof; and in every such case, the Crown and government shall from time to time descend to, and be enjoyed by such person, being a Protestant, as should have inherited and enjoyed the same, in case such Papist, or person marrying a Papist, was naturally dead, according to the provision for the descent of the Crown of England, made by another Act of Parliament in England in the first year of the reign of their late Majesties King William and Queen Mary, entitled, *An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown*.

ARTICLE III

That the united kingdom of Great Britain be represented by one and the same Parliament, to be styled, The Parliament of Great Britain.

ARTICLE-IV

That all the subjects of the united kingdom of Great Britain shall, from and after the Union, have full freedom and intercourse of trade and navigation to and from any port or place within the said united kingdom, and the dominions and plantations thereunto belonging; and that there be a communication of all other rights, privileges, and advantages, which do or may belong to the subjects of either kingdom; except where it is otherwise expressly agreed in these articles.

ARTICLE V

(Scotch ships to be registered as British ships.)

ARTICLE VI

(Concerning Trade, Scots Cattle, and Importation of Victuals.)

ARTICLE VII

(Concerning Excises.)

ARTICLE VIII

(Concerning Foreign Salt, Scotch Salt, Flesh Exported from Scotland, Curing of Herrings, Fish Exported, etc.)

ARTICLE IX

(Concerning Land Tax and Quota of Scotland.)

ARTICLE X

(Concerning Stamped Vellum.)

ARTICLE XI

(Concerning the Window Tax.)

ARTICLE XII

(Concerning Coals, Culm, and Cinders.)

ARTICLE XIII

(Concerning Malt.)

ARTICLE XIV

(Scotland not chargeable with any other duties before the Union, except these consented to.)

ARTICLE XV

(Concerning Equivalent Money and Uses, Coin of Scotland, African and Indian Company of Scotland, Overplus, Public Debts of Scotland, Manufacture of Coarse Wool, Fisheries, and the Appointment of Commissioners for the Equivalent.)

ARTICLE XVI

That from and after the Union, the coin shall be of the same standard and value throughout the united kingdom, as now in England, and a mint shall be continued in Scotland, under the same rules as the mint in England, and the present officers of the mint continued, subject to such regulations and alterations as her Majesty, her heirs or successors, or the Parliament of Great Britain shall think fit.

ARTICLE XVII

That from and after the Union, the same weights and measures shall be used throughout the united kingdom, as are now established in England, and standards of weights

and measures shall be kept by those burghs in Scotland, to whom the keeping the standards of weights and measures, now in use there, does of special right belong: All which standards shall be sent down to such respective burghs, from the standards kept in the Exchequer at Westminster, subject nevertheless to such regulations as the Parliament of Great Britain shall think fit.

ARTICLE XVIII

That the laws concerning regulation of trade, customs, and such excises to which Scotland is, by virtue of this treaty, to be liable, be the same in Scotland, from and after the Union, as in England; and that all other laws in use within the kingdom of Scotland, do after the Union, and notwithstanding thereof, remain in the same force as before (except such as are contrary to, or inconsistent with this treaty), but alterable by the Parliament of Great Britain; with this difference betwixt the laws concerning public right, policy, and civil government, and those which concern private right, that the laws which concern public right, policy, and civil government, may be made the same throughout the whole united kingdom; but that no alteration be made in laws which concern private right, except for evident utility of the subjects within Scotland.

ARTICLE XIX

(Concerning Courts and the Privy Council.)

ARTICLE XX

(Concerning Heritable Offices.)

ARTICLE XXI

(Concerning Royal Burghs.)

ARTICLE XXII

That, by virtue of this treaty, of the peers of Scotland, at the time of the Union, sixteen shall be the number to sit and vote in the House of Lords, and forty-five the number of representatives of Scotland in the House of Commons of the Parliament of Great Britain; and that when her Majesty, her heirs or successors, shall declare her or their pleasure for holding the first or any other subsequent Parliament of Great Britain, until the Parliament of Great Britain shall make further provision therein, a writ do issue under the great seal of the united kingdom, directed to the privy council

of Scotland, commanding them to cause sixteen peers, who are to sit in the House of Lords, to be summoned to Parliament, and forty-five members to be elected to sit in the House of Commons of the Parliament of Great Britain, according to the agreement of this treaty, in such manner as by an Act of this present session of the Parliament of Scotland is or shall be settled; which Act is hereby declared to be as valid as if it were a part of and engrossed in this treaty. And that the names of the persons so summoned and elected shall be returned by the privy council of Scotland into the court from whence the said writ did issue... And that every one of the lords of Parliament of Great Britain, and every member of the House of Commons of the Parliament of Great Britain, in the first and all succeeding Parliaments of Great Britain, until the Parliament of Great Britain shall otherwise direct, shall take the respective oaths appointed to be taken instead of the oaths of allegiance and supremacy... And it is declared and agreed, That these words, *This Realm*, *The Crown of this Realm*, and *The Queen of this Realm*, mentioned in the oaths and declaration contained in the aforesaid Acts, which were intended to signify the crown and realm of England, shall be understood of the crown and realm of Great Britain; and that in that sense the said oaths and declaration be taken and subscribed by the members of both Houses of the Parliament of Great Britain.

ARTICLE XXIII

That the aforesaid sixteen peers of Scotland mentioned in the last preceding article, to sit in the House of Lords of the Parliament of Great Britain, shall have all privileges of Parliament, which the peers of England now have, and which they, or any peers of Great Britain shall have after the Union, and particularly the right of sitting upon the trial of peers: And in case of the trial of any peer, in time of adjournment, or prorogation of Parliament, the said sixteen peers shall be summoned in the same manner, and have the same powers and privileges at such trial, as any other peers of Great Britain. And that in case any trials of peers shall hereafter happen, when there is no Parliament in being, the sixteen peers of Scotland who sat in the last preceding Parliament, shall be summoned in the same manner, and have the same powers and privileges at such trials, as any other peers of Great Britain; and that all peers of Scotland, and their successors to their honours and dignities, shall from and after

the Union, be peers of Great Britain, and have rank and precedence next and immediately after the peers of the like orders and degrees in England at the time of the Union, and before all peers of Great Britain of the like orders and degrees, who may be created after the Union, and shall be tried as peers of Great Britain, and shall enjoy all privileges of peers, as fully as the peers of England do now, or as they, or any other peers of Great Britain may hereafter enjoy the same, except the right and privilege of sitting in the House of Lords, and the privileges depending thereon, and particularly the right of sitting upon the trials of peers.

ARTICLE XXIV

That from and after the Union, there be one great seal for the united kingdom of Great Britain, which shall be different from the great seal now used in either kingdom: And that the quartering the arms, and the rank and precedence of the lyon king of arms of the kingdom of Scotland, as may best suit the Union, be left to her Majesty: And that in the mean time, the great seal of England be used as the great seal of the united kingdom, and that the great seal of the united kingdom be used for sealing writs to elect and summon the Parliament of Great Britain, and for sealing all treaties with foreign princes and states, and all public acts, instruments and orders of state, which concern the whole united kingdom, and in all other matters relating to England, as the great seal of England is now used: And that a seal in Scotland after the Union be always kept and made use of in all things relating to private rights or grants, which have usually passed the great seal of Scotland, and which only concern offices, grants, commissions, and private rights within that kingdom; and that until such seal be appointed by her Majesty, the present great seal of Scotland shall be used for such purposes: And that the privy seal, signet, casset, signet of the judiciary court, quarter seal, and seals of court now used in Scotland be continued; but that the said seals be altered and adapted to the state of the Union, as her Majesty shall think fit; and the said seals, and all of them, and the keepers of them, shall be subject to such regulations as the Parliament of Great Britain shall hereafter make. And that the crown, sceptre, and sword of state, the records of Parliament, and all other records, rolls and registers whatsoever, both public and private, general and particular, and warrants thereof, continue to be kept as they are within that part of the united

kingdom now called Scotland; and that they shall so remain in all time coming, notwithstanding the Union.

ARTICLE XXV

That all laws and statutes in either kingdom, so far as they are contrary to, or inconsistent with the terms of these articles, or any of them, shall, from and after the Union, cease and become void, and shall be so declared to be, by the respective Parliaments of the kingdom.

As by the said articles of Union, ratified and approved by the said Act of Parliament of Scotland, relation being thereunto had, may appear. And the tenor of the aforesaid Act for securing the Protestant religion and Presbyterian church government within the kingdom of Scotland, is as follows:

II. Our sovereign lady, and the estates of Parliament, considering that by the late Act of Parliament, for a treaty with England for an Union of both kingdoms, it is provided, That the commissioners for that treaty shall not treat of or concerning any alteration of the worship, discipline, and government of the church of this kingdom as now by law established: Which treaty being now reported to the Parliament, and it being reasonable and necessary that the true Protestant religion, as presently professed within this kingdom, with the worship, discipline, and government of this church, should be effectually and unalterably secured: Therefore her Majesty, with advice and consent of the said estates of Parliament, doth hereby establish and confirm the said true Protestant religion, and the worship, discipline, and government of this church, to continue without any alteration to the people of this land in all succeeding generations; and more especially her Majesty, with advice and consent aforesaid, ratifies, approves, and for ever confirms the fifth Act of the first Parliament of King William and Queen Mary, entitled, *Act ratifying the Confession of Faith, and settling Presbyterian Church Government*; with all other Acts of Parliament relating thereto, in prosecution of the declaration of the estates of this kingdom, containing the claim of right, bearing date the eleventh of April, one thousand six hundred and eighty-nine: And her Majesty, with advice and consent aforesaid, expressly provides and declares, That the foresaid true Protestant religion, contained in the above-mentioned confession of faith, with the form and purity of

worship presently in use within this church, and its Presbyterian church government and discipline (that is to say) the government of the church by kirk sessions, presbyteries, provincial synods, and general assemblies, all established by the foresaid Acts of Parliament, pursuant to the claim of right, shall remain and continue unalterable, and that the said Presbyterian government shall be the only government of the church within the kingdom of Scotland.

III. (Providing for the continuance of Universities and Colleges in Scotland.)

IV. (Scotch subjects not to be liable to any oath inconsistent with said Church Government; Queen's successors to maintain said government.)

V. And it is hereby statute and ordained, That this Act of Parliament, with the establishment therein contained, shall be held and observed in all time coming, as a fundamental and essential condition of any treaty or Union to be concluded betwixt the two kingdoms, without any alteration thereof, or derogation thereto in any sort for ever: As also, That this Act of Parliament, and settlement therein contained, shall be insert and repeated in any Act of Parliament that shall pass for agreeing and concluding the foresaid treaty or Union betwixt the two kingdoms; and that the same shall be therein expressly declared to be a fundamental and essential condition of the said treaty or Union in all time coming: Which articles of Union, and Act immediately above-written, her Majesty, with advice and consent aforesaid, statutes, enacts, and ordains to be and continue, in all time coming, the sure and perpetual foundation of a complete and entire Union of the two kingdoms of Scotland and England, under the express condition and provision, that this approbation and ratification of the foresaid articles and Act shall be no ways binding on this kingdom, until the said articles and Act be ratified, approved, and confirmed by her Majesty, with and by the authority of the Parliament of England, as they are now agreed to, approved, and confirmed by her Majesty, with and by the authority of the Parliament of Scotland; declaring nevertheless, that the Parliament of England may provide for the security of the church of England as they think expedient, to take place within the bounds of the said kingdom of England, and not derogating from the security above provided for establishing of the church of Scotland within the bounds of this kingdom: as also the said Parliament of England may extend the additions and other

provisions contained in the articles of Union, as above insert, in favours of the subjects of Scotland, to and in favours of the subjects of England; which shall not suspend or derogate from the force and effect of this present ratification, but shall be understood as herein included, without the necessity of any new ratification in the Parliament of Scotland.

VI. (Providing that all laws, etc., inconsistent with Articles of Union, shall cease.)

VII. And whereas an Act hath passed in this present session of Parliament, entitled, *An Act for securing the Church of England as by Law established*; the tenor whereof follows:

Whereas by an Act made in the session of Parliament held in the third and fourth year of her Majesty's reign, whereby her Majesty was empowered to appoint commissioners, under the great seal of England, to treat with commissioners to be authorized by the Parliament of Scotland, concerning an Union of the kingdoms of England and Scotland, it is provided and enacted, That the commissioners to be named in pursuance of the said Act should not treat of or concerning any alteration of the liturgy, rites, ceremonies, discipline, or government of the church as by law established within this realm: And whereas certain commissioners appointed by her Majesty in pursuance of the said Act, and also other commissioners nominated by her Majesty by the authority of the Parliament of Scotland, have met and agreed upon a treaty of Union of the said kingdoms; which treaty is now under the consideration of this present Parliament: And whereas the said treaty (with some alterations therein made) is ratified and approved by Act of Parliament in Scotland; and the said Act of ratification is by her Majesty's royal command, laid before the Parliament of this kingdom: And whereas it is reasonable and necessary, that the true Protestant religion professed and established by law in the Church of England, and the doctrine, worship, discipline, and government thereof, should be effectually and unalterably secured; be it enacted by the Queen's most excellent Majesty, by and with the advice of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by authority of the same, That an Act made in the thirteenth year of the reign of Queen Elizabeth, of famous memory, entitled, *An Act for the Ministers of the Church to be of sound Religion*; and also another Act made in the thirteenth year of the reign of the late King Charles the

Second, entitled, *An Act for the Uniformity of the Public Prayers and Administration of Sacraments, and other Rites and Ceremonies, and for establishing the form of making, ordaining, and consecrating Bishops, Priests and Deacons in the Church of England*, (other than such clauses in the said Acts, or either of them, as have been repealed or altered by any subsequent Act or Acts of Parliament,) and all and singular other Acts of Parliament now in force for the establishment and preservation of the Church of England, and the doctrine, worship, discipline, and government thereof, shall remain and be in full force for ever.

VIII. (Providing that the Queen's successors are to take an oath to maintain the settlement of the Church of England.)

IX. (Providing that this Act is to be an essential part of any treaty between the kingdoms.)

X. (Providing that the Articles of Union, and the Act for the establishment of the Presbyterian Church Government, be ratified and confirmed.)

XI. (Declaring the Acts for settling the Church Governments in both kingdoms essential parts of the Union.)

XII. And whereas since the passing the said Act in the Parliament of Scotland, for ratifying the said articles of Union, one other Act, entitled, *An Act settling the Manner of electing the Sixteen Peers, and Forty-five Members, to represent Scotland in the Parliament of Great Britain*, hath likewise passed in the said Parliament of Scotland at Edinburgh, the fifth day of February, one thousand seven hundred and seven, the tenor whereof follows:

Our sovereign lady considering, That by the twenty-second articles of the treaty of Union, as the same is ratified by an Act passed in this session of Parliament, upon the sixteenth of January last, it is provided, That by virtue of the said treaty, of the Peers of Scotland, at the time of the Union, sixteen shall be of the number to sit and vote in the House of Lords, and forty-five the number of the representatives of Scotland in the House of Commons of the Parliament of Great Britain; and that the said sixteen peers, and forty-five members in the House of Commons, be named and chosen in such manner as by a subsequent Act in this present session of the Parliament in Scotland, should be settled; which Act is thereby declared to be as valid, as if it were a part of, and engrossed in the said treaty: Therefore her Majesty, with the advice and consent of the estates of Par-

liament, statutes, enacts and ordains, That the said sixteen peers, who shall have right to sit in the House of Peers in the Parliament of Great Britain, on the part of Scotland, by virtue of this treaty, shall be named by the said peers of Scotland, whom they represent, their heirs or successors to their dignities and honours, out of their own number, and that by open election and plurality of voices of the peers present, and of the proxies for such as shall be absent, the said proxies being peers, and producing a mandate in writing duly signed before witnesses, and both the constituent and proxy being qualified according to law; declaring also, That such peers as are absent, being qualified as aforesaid, may send to all such meetings lists of the peers whom they judge fittest, validly signed by the said absent peers, which shall be reckoned in the same manner as if the parties had been present, and given in the said list; and in case of the death, or legal incapacity of any of the sixteen peers, that the aforesaid peers of Scotland shall nominate another of their own number, in place of the said peer or peers, in manner before and after-mentioned: And that of the said forty-five representatives of Scotland in the House of Commons in the Parliament of Great Britain, thirty shall be chosen by the Shires or Steuartries, and fifteen by the royal borrows, as follows: (The remainder of the Article provides for the methods of election, legal capacities, oaths to be administered to, etc., of those elected to the House of Commons.)

XIII. As by the said Act passed in Scotland, for settling the manner of electing the sixteen peers, and forty-five members, to represent Scotland in the Parliament of Great Britain, may appear; Be it therefore further enacted and declared by the authority aforesaid, That the said last-mentioned Act passed in Scotland for settling the manner of electing the sixteen peers, and forty-five members, to represent Scotland in the Parliament of Great Britain, as aforesaid, shall be, and the same is hereby declared to be as valid as if the same had been part of, and engrossed in the said articles of Union ratified and approved by the said Act of Parliament of Scotland, and by this Act, as aforesaid.

(Evans' *Collection of Statutes*, ed. Hammond & Granger, Lond., 1836, VIII, 446.)

CHAPTER XXVI

THE JACOBITE REBELLIONS

195. The Proclamation of James III.

(1715)

Clarke

The first Jacobite Rebellion, which was doomed to end in a complete fiasco, was hardly imposing in its beginnings. The account given by PETER CLARKE of the reading of the Pretender's proclamation at Kendall reads like the description of the rehearsal of a comedy, rather than a serious uprising. Yet the play turned out to be a tragedy for many, although from the inception it was a hopeless undertaking.

Sir, — On Wednesday the second day of November one thousand seaven hundred and fifteen, the then high sherriff of Cumberland assembled the *posse comitatus* on Penrith Fell, Viscount Loynsdale being there as commanded of the malitia of Westmoreland, Cumberland, and Northumberland, who were assembled at the place aforesaid for prevention of rebelion and riots. The Lord Bishop of Carlisle and his daughter were there. By the strictest observation the numbers were twenty-five thousand men, but very few of them had any regular armes.

At 11 o'clock in the afternoon of the same day the high sherriff and the two lords received a true account that the Earl of Derwentwater, together with his army, were within 6 miles of Penrith. Vpon receipt of this news the said high sherriff and the said 2 lords, the *posse comitatus* and the malitia fled, leaving most of their armes vpon the said fell.

There is no doubt had the men stood their ground the said Earl and his men (as it hath since beene acknowledged by diverse of them) wood have retreated. About 3 aclock in the afternoon of the same day the said Earl, together with his armys in number about one thousand seaven hundred, entred the said towne of Penrith, where they proclaimed their king by the name and title of James the 3d of England and Ireland, and 8th of Scotland. In this towne they received

what excise was due to the crowne and gave receipts for the same. A small party were sent to Lowther Hall to search for Lord Loynsdale, but not finding him there (for he was gone into Yorkshire), they made bold to take provision for themselves and their horses, such as the Hall afforded. There were only at that time two old woomen in the said Hall who received no bodily damage. But provision being scarce in the said towne, Penrith, they marched betimes next morning for Apleby. The gentlemen paid their quarters of for what they called for in both these townes, but the commonality paid little or nothing, neither was there any person that received any bodily damage in either of the said townes. If they found any armes they tooke them without paying the owners for them. Only one man joyned them in their march from Penrith to Apleby. In this towne they made the same proclamation as they had done in the former, and received the excise. The weather at this time for some days before was rainey. They marched out of this towne betimes on Saturday morning, being the 5th of November, in order for Kendall. In this days march none joyned them (excepting one, Mr. Francis Thornburrow) son of Mr. William Thornburrow of Selfet Hall neare Kendall. His father sent one of his servant men to wait vpon his son because he was in scarlet cloathes, and stile of Captain Thornburrow.

About 12 a'clock of the same day 6 quartermasters came into the towne of Kendall, and about 2 aclock in the afternoone Brigadeer Mackintoss and his men came both a horseback, having both plads on their targets hanging on their backs, either of them a sord by his side, as also either a gun and a case of pistols. The said Brigadeere looked with a grim countenance. He and his men lodged at Alderman Lowrys, a private house in Highgate Street in this towne. About one houre after came in the horsemen, and the footmen at the latter end. It rained very hard here this day, and had for several days before, so that the horse and the footmen did not draw their swords, nor shew their collours, neither did any drums beat. Onely six highlands bagpipes played. They marched to the cold-stone or the cross, and read the same proclamation twice over in English, and the reader of it spoke very good English without any mixture of Scottish tongue. I had for about one month lived and was clerke to Mr. Craikenthorp, attorney at Law, and as a spectator I went to heare the proclamation read, which I believe was in print, and began after this manner, vizt., Whereas

George Elector of Brunswick has vsurped and taken vpon him the stile of the king of these realms, etc. Another clause in it I tooke particular notice of which was this, vizt., Did imediatly after his said fathers decease become our only and lawful leige. At the end of the proclamation they gave a great shout. A quaker who stood next to me not puting of his hat at the end of the said ceremony, a highlander thrust a halbert at him, but it fortunatly went between me and him, so that it did neither of vs any damage. So they dispersed.

(Peter Clarke's Journal, 1715. From *Miscellany* of the Scottish History Society ed. I, p. 513.)

196. Landing of the Young Pretender

(1745)

Robert Forbes

The following account is taken from *The Lyon in Mourning*, a collection of journals, narratives, etc., of the second Jacobite invasion. This collection was made by the Rev. Robert Forbes, M.A., Bishop of Ross and Caithness. He was an ardent supporter of the Jacobite cause, and indefatigable in the acquisition of facts pertaining thereto. The original title-page of the manuscript from which the published work was edited, reads as follows: "The Lyon in Mourning; or, A Collection (as made as exactly as the Iniquity of the Times would permit) of Speeches, Letters, Journals, &c., relative to the Affairs, but more particularly to the Dangers and Distresses of..."

Journal of the Prince's imbarcation and arrival, etc., the greatest part of which was taken from Duncan Cameron at several different conversations I had with him.

At Nantes the Prince and his few attendants waited about fifteen days before the *Elizabeth* ship of war came, which was to be their convoy in the expedition. To cover the design the better, Sir Thomas Sheridan passed for the father, and the Prince for the son, for none knew the Prince to be in company but the seven, some few others, and Mr. Welch (an Irishman, a very rich merchant in Nantes), who was to command the frigate of sixteen guns, on board of which the Prince and the few faithful friends with the servants were to imbark.

After the Prince was on board he dispatched letters to his father, and the King of France, and the King of Spain, advising them of his design, and no doubt desiring assistance. . . .

Two or three hours before landing, an eagle came hover-

ing over the frigate, and continued so to do till they were all safe on shore. Before dinner the Duke of Athol had spied the eagle; but (as he told several friends in Scotland) he did not chuse then to take any notice of it, lest they should have called it a Highland freit in him. When he came upon deck after dinner, he saw the eagle still hovering about in the same manner, and following the frigate in her course, and then he could not help remarking it to the Prince and his small retinue, which they looked upon with pleasure. His grace, turning to the Prince said, "Sir, I hope this is an excellent omen, and promises good things to us. The king of birds is come to welcome your royal highness upon your arrival in Scotland."

When they were near the shore of the Long Isle, Duncan Cameron was set out in the long boat to fetch them a proper pilot. When he landed he accidentally met with Barra's piper, who was his old acquaintance, and brought him on board. The piper piloted them safely into Erisca (about July 21st), a small island lying between Barra and South Uist. "At this time," said Duncan Cameron, "there was *a devil of a minister* that happened to be in the island of Barra, who did us a' the mischief that lay in his power. For when he had got any inkling about us, he dispatched away expresses with informations against us. But as the good luck was, he was not well believed, or else we would have been a' tane by the neck."

When Duncan spoke these words, "*a devil of a minister*," he bowed low, and said to me, "Sir, I ask you ten thousand pardons for saying so in your presence. But, good faith, I can assure you, sir (asking your pardon), he was nothing else but the *devil of a minister*."

When they landed in Eriska, they could not find a grain of meal or one inch of bread. But they caught some flounders, which they roasted upon the bare coals in a mean low hut they had gone into near the shore, and Duncan Cameron stood cook. The Prince sat at the cheek of the little ingle, upon a fail sunk, and laughed heartily at Duncan's cookery, for he himself owned he played his part awkwardly enough.

Next day the Prince sent for young Clanranald's uncle (Alexander MacDonald of Boisdale), who lived in South Uist, and discovered himself to him. This gentleman spoke in a very discouraging manner to the Prince, and advised him to return home. To which it is said the Prince replied,

"I am come home, sir, and I will entertain no notion at all of returning to that place from whence I came; for that I am persuaded my faithful Highlanders will stand by me." Mr. MacDonald told him he was afraid he would find the contrary....

The royal standard was set up at Glenfinnan (August 19th), the property of Clanranald, at the head of Lochschiell, which marches with Lochiel's ground, and lies about ten miles west from Fort William. The Prince had been a full week before this, viz., from Sunday the 11th, at Kinlochmoydart's house, and Lochiel had been raising his men who came up with them just as the standard was setting up....

September 4th. In the evening he made his entrance into Perth upon the horse that Major MacDonall had presented him with....

September 16th. The Prince and his army were at Gray's Mill upon the Water of Leith, when he sent a summons to the Provost and Town Council of Edinburgh to receive him quietly and peacefully into the city. Two several deputations were sent from Edinburgh to the Prince begging a delay till they should deliberate upon what was fittest to be done. Meantime eight or nine hundred Highlanders under the command of Keppoch, young Lochiel, and O'Sullivan, marched in between the Long Dykes without a hush of noise, under the favour of a dark night, and lurked at the head of the Canongate about the Nether Bow Port till they should find a favourable opportunity for their design, which soon happened. The hackney coach that brought back the second deputation, entred at the West Port, and after setting down the deputies at their proper place upon the street, drove down the street towards the Canongate, and when the Nether Bow Port was made open to let out the coach, the lurking Highlanders rushed in (it being then peep of day) and made themselves masters of the city without any opposition, or the smallest noise.

(*The Lyon in Mourning*, Robert Forbes, edited from his Manuscript by Henry Paten, 3 vols., University Press, Edinburgh, 1895. I, 201.)

197. Escape of Prince Charles at Moy Hall

Gib

The peril which the Pretender narrowly escaped at Moy Hall on February 17th—not 24th, as erroneously dated in Gib's account—is a good example of the dangers to which he was constantly subjected, and of the devotion of his adherents. Gib's "accompts" are mostly made up of household expenses, with occasional interruptions in the shape of narrative.

Copy (exact and faithful) of the Accompts of James Gib, who served the Prince in station of Master-Household and provisor for the Prince's own Table.

24 Monday. At Moy hall.

N.B. — This is the day in the morning of which Lord Loudon thought to have surprized the Prince, and to have taken him prisoner in his bed at Moy or Moy-hall. Old Lady Macintosh, living in Inverness, and getting notice of Lord Loudon's design, dispatched a boy (Lachlan Macintosh) about fifteen years of age, to try if he could get past Lord Loudon's men, and to make all the haste he could to Moy to warn the Prince of what was intended against him. The boy attempted to pass by Lord Loudon and his command, but found that he could not do it without running the risque of a discovery; and therefore, as he said, he lay down at a dyke's side, till all Lord Loudon's men passed him, and, taking a different road, came to Moy about five o'clock in the morning. And though the morning was exceedingly cold, the boy was in a top sweat, having made very good use of his time. He said that Lord Loudon and his men (to use his own words) were within five quarters of a mile of Moyhall. Immediately the Prince was awaked, and having but about thirty men for a guard, he marched two miles down the country by the side of a loch, till his men should convene. There was not the least suspicion entertained of any danger, otherwise there would have been a much stronger guard about the Prince's person; and there is no doubt to be made but that Lord Loudon had got certain information of the small number of men who were to mount guard upon the Prince that night, which had induced him to try the experiment. Lady Macintosh (junior) was in great pain to have the Prince save off from Moy when she heard the alarm. The Prince returned the same night (Monday) to Moy and slept there. Mr. Gib, upon the alarm, having been sleeping in his cloaths, stept out with his pistols under his arm, and in the close he saw the Prince walking with his bonnet above his nightcap, and his shoes down to his heels; and Lady Macintosh in her smock petticoat running through the close, speaking loudly and expressly her anxiety about the Prince's safety. Mr. Gib went along with the Prince down the side of the Loch, and left several covered waggons and other baggage at Moy, about which Lady Macintosh forbad Mr.

Gib to be in the least anxious, for that she would do her best to take care of them. And indeed she was as good as her word; for upon the Prince's return to Moy, Mr. Gib found all his things in great safety, the most of them having been carried off by Lady Macintosh's orders into a wood, where they would not readily have been discovered, though Lord Loudon and his men had proceeded to Moy. But they were most providentially stopt in their march, which happened thus. A blacksmith and other four, with loaded muskets in their hands, were keeping watch upon a muir at some distance from Moy towards Inverness. As they were walking up and down, they happened to spy a body of men walking towards them, upon which the blacksmith fired his piece, and the other four followed his example. The Laird of Macleod's piper (reputed the best of his business in all Scotland) was shot dead on the spot. Then the blacksmith (Fraser) and his trusty companions raised a cry (calling some particular regiments by their names) to the Prince's army to advance, as if they had been at hand, which so far imposed upon Lord Loudon and his command (a pretty considerable one), and struck them with such a panick, that instantly they beat a retreat, and made their way back to Inverness in great disorder, imagining the Prince's whole army to be at their heels. This gallant and resolute behaviour of the five, which speaks an uncommon presence of mind, happened much about the same time when the boy (Lauchlan Macintosh) arrived at Moy to give the alarm.

(*The Lyon in Mourning*, ed. cit., II, 134.)

198. After Culloden

John Fraser

The brutalities perpetrated upon the conquered by the victors at Culloden are shown in the account, given by Mr. Fraser, of the execution of prisoners, with its attendant outrages.

An account of the Signal Escape of John Fraser taken from the Copy Printed at Edinburgh.

John Fraser, Ensign in the Master of Lovat's regiment, was shot through the thigh by a musket bullet at the battle of Culloden, and was taken prisoner, after the battle, at a little distance from the field, and carried to the House of Culloden, where a multitude of other wounded prisoners lay under strong guards. There he and the other miserable

gentlemen (for most of them were gentlemen), lay with their wounds undressed for two days in great torture. Upon the third day he was carried out of Culloden House, and with other eighteen of his fellow prisoners flung into carts, which they imagined were to carry them to Inverness to be dressed of their wounds. They were soon undeceived. The carts stopt at a park dyke at some distance from the house; there they were dragged out of the carts; the soldiers who guarded them, under command of three officers, carried the prisoners close to the wall or park dyke, along with they ranged them upon their knees, and bid them prepare for death. The soldiers immediately drew up opposite to them. It is dreadful to proceed! They levelled their guns! They fired among them. Mr. Fraser fell with the rest, and did not doubt that he was shot. But as those gentlemen who proceeded thus deliberately in cold blood had their orders to do nothing by halves, a party of them went along and examined the slaughter, and knocked out the brains of such as were not quite dead; and observing signs of life in Mr. Fraser, one of them with the butt of his gun struck him on the face, dashed out one of his eyes, and beat down his nose flat and shattered to his cheek, and left him for dead. The slaughter thus finished the soldiers left the field. In this miserable situation, Lord Boyd riding out that way with his servant, espied some life in Mr. Fraser, who by that time had crawled to a little distance from his dead friends, and calling out to him, asked what he was. Fraser told him he was an officer in the Master of Lovat's corps. Lord Boyd offered him money, saying he had been acquainted with the Master of Lovat, his colonel. Mr. Fraser said he had no use for money, but begged him for God's sake to cause his servant carry him to a certain mill and cott house, where he said he would be concealed and taken care of. This young Lord had the humanity to do so, and in this place Mr. Fraser lay concealed, and by God's providence recovered of his wounds, and is now a living witness of as unparallel'd a story in all its circumstances as can be met with in the history of any age.

Mr. Fraser is well known and his veracity attested by all the Inverness people.

N.B. — Mr. David Chisholm, Presbyterian Minister at Kilmorack in the shire of Inverness, when in Edinburgh at the General Assembly in May 1758, told that said Fraser or MacIver still lives at a place called Wellhouse in said parish

of Kilmorack, that his name is Alexander and not John, and that he himself (Mr. Chisholm), is a blood relation to said Alexander Fraser's Wife (See f. 1619).

Robert Fraser, A.M.

(From *The Lyon in Mourning*, ed. cit., II, p. 260 f.)

199. Bond Given by the Young Pretender

The Lyon in Mourning

The conditions of the bond given by Prince Charles to Hepburn of Kingstoun were hardly calculated to give it value, save as a curiosity, but it well illustrates the manner in which money was raised for the Stuart cause. The original was preserved by Mr. John Goodwillie, who attested the copy under the name of Benevole — a punning translation of his name in Latin.

L. S. We, Charles Prince of Wales, etc., Regent of the kingdoms of Scotland, England, France, and Ireland, and the dominions thereunto belonging, Whereas Patrick Hepburn of Kingstoun in the County of Haddington hath advanced to us by the hands of Collonel Lauchlan M'Lauchlan of that Ilk the sum of seven hundred and fourty pounds sterling in numerate money of Britain, we therefore hereby authorise and appoint our treasurer for the time to repay the aforesaid sum of seven hundred and fourty pounds to the said Patrick Hepburn, his heirs and assigneys whomsoever, and that how soon we shall arrive at our Palace of St. James, London, our Royall Father settled upon the throne of our royall ancestors, and our said kingdoms in peace and tranquillity, under our government. Given at our Palace of Holyroodhouse, the seventeenth day of October, 1745.

(Signed) Charles P. R.

Hæc est vera copia ita testamur.

Johannes Benevole,
Scriba.

Sic subscribitur { Robertus Ross, *testis*.
Alexander Mitchell, *testis*.

(From *The Lyon in Mourning* (see above). II, p. 262.)

200. Execution of the Rebel Lords

R. Graham

The following letter, written by a spectator of the execution of the rebel lords, furnishes a fitting conclusion to the extracts concerning the Jacobite uprisings, which in 1715 and 1746 threatened the throne of the Protestant Succession.

LETTER DESCRIBING THE EXECUTION OF THE REBEL LORDS IN
1746, COPIED FROM THE ORIGINAL

August 20th (1746).—Dear Sir,—As you and Mrs. Grimstone attended the Lords' tryal, I thought it would not be disagreeable to you to have an account of their exit or the last act of their tragedy, especially as I saw part of it, and heard the rest from one who was on the scaffold. The sheriffs came there between 9 and 10 to see if everything was prepared. The scaffold was nine feet above ground, with a rail and black bays hanging from it. On the floor (which was covered with sawdust) was fixed the block, 2ft. 2in. high and 3 inches broad: near it lay red bags to receive the heads, and two white sheets to wrap the bodies in, and on each side were the coffins with coronets and inscriptions, and on the ground two hearses. The executioner was in blew with gold buttons and a red waistcoat (the cloaths of Fletcher executed by him): the ax that of a carpenter.

At 11 the Lords came: Kilmarnock attended by Foster and a young clergyman. Balmerino was dressed in blew turned up with red (his uniform). Going into the house prepared for them, a spectator asked which was Balmerino; to which he replied, "I am he at your service." Then turning to Kilmarnock, he told him he was sorry he was not the only sacrifice, and asked the sheriffs if they were ready, for he longed to be at home, and said he was asham'd for some of his friends, who shed tears when Lord Kilmarnock came on the scaffold. The bays was turned up that all might see, and the executioner put on a white waistcoat. My Lord had a long discourse with Foster, who pressed him to own there what he had told him privately,—a detestation of the fact for which he suffered; which he did and which Foster has advertised.

The executioner was a great while fitting him for the block, my Lord rising several times; and when down on his knees, it was six minutes before he gave the sign, when his head was nearly severed from his body by one blow; a slight cut finished the execution, and the body fell on its back....

The scaffold being cleared, and the executioner having put on a clean shirt, Lord Balmerino mounted the stage, and immediately walked to his coffin, and read the inscription, and then called up a warder, and gave him his tye wig, and put on a Scotch plaid cap, and then read a paper denying

the Pretender's orders for no quarter, commending him very much: but being interrupted, he desired (briskly) to go on, and said he should lay down his head with pleasure on that block, pointing to it, and desiring those between him and it to remove. He reflected very much upon General Williamson, but said he had received the Sacrament that morning, and was told it was not proper for a person of his condition to say more of him, but referred for his character to Psalm 109, from verse 5th to 15th. He said the Pretender gave him leave to enter our service, but soon as he could be of service to him, he left us. He talked to the executioner, took the ax in his hand, and tried the block, and told and showed him where to strike (near his head), and gave him three guineas (all he had); kneeled down and presently gave the sign. The first blow did not strike his head off, so that the assistants were forced to lift up his body to receive a second, but the third finished him.

I own I was a great deal more moved when I called on my friend Mr. Gill in the afternoon, and found him in great pain and given over by his Doctor, than I was with what I saw in the morning.

The Guards attending were 1,000, and I am sure the spectators were 100 to 1 of the Guards.

I am yours and Mr. and Mrs. Grimstons

Most obliged servant,

R. Graham.

(*Diaries of a Lady of Quality* (Miss Wynn), ed. by A. Hayward Q.C.
London, 1864, p. 142.)

CHAPTER XXVII

JOHN WILKES

201. No. 45 of the "North Briton"

We cannot better introduce the following paper than by quoting the words of Sir THOMAS ERSKINE MAY, in his *Constitutional History of England*:

"On the 23rd of April, 1763, appeared the memorable number of the 'North Briton,' commenting upon the king's speech at the prorogation, and upon the unpopular peace recently concluded. It was at once stigmatized by the court as an audacious libel, and a studied insult to the king himself; and it has since been represented in the same light, by historians not heated by the controversies of that time. But however bitter and offensive, it unquestionably assailed the minister rather than the king. Recognizing, again and again, the constitutional maxim of ministerial responsibility, it treated the royal speech as the composition of the minister."

The result of the publication was the prosecution of Wilkes for libel in the Court of King's Bench. A verdict was easily obtained, but the people considered Wilkes their champion, and the illegal proceedings against him made him a hero. He was punished by imprisonment, but finally triumphed by being seated in that Parliament which had ousted him from their midst as a thing unclean.

THE NORTH BRITON

No. XLV, Saturday, April 23, 1763.

*Genus orationis atrox, et vehemens, cui opponitur lenitatis
et mansuetudinis.*

CICERO.

The *King's Speech* has always been considered by the legislature, and by the public at large, as the *Speech of the*

Minister. It has regularly, at the beginning of every session of parliament, been referred by both houses to the consideration of a committee, and has been generally canvassed with the utmost freedom, when the minister of the crown has been obnoxious to the nation. The ministers of this free country, conscious of the undoubted privileges of so spirited a people, and with the terrors of parliament before their eyes, have ever been cautious, no less with regard to the matter, than to the expressions, of *speeches*, which they have advised the sovereign to make from the throne, at the *opening* of every session. They well knew that an honest house of parliament, true to their trust, could not fail to detect the fallacious arts, or to remonstrate against the daring acts of violence, committed by any minister. The speech at the *close* of the session has ever been considered as the most *secure* method of promulgating the favourite court creed among the vulgar; because the parliament, which is the constitutional guardian of the liberties of the people, has in this case no opportunity of remonstrating, or of impeaching any wicked servant of the crown.

This week has given the public the most abandoned instance of ministerial effrontery ever attempted to be imposed on mankind. The *minister's speech* of last Tuesday, is not to be paralleled in the annals of this country. I am in doubt, whether the imposition is greater on the sovereign, or on the nation. Every friend of his country must lament that a prince of so many great and amiable qualities, whom England truly reveres, can be brought to give the sanction of his sacred name to the most odious measures, and to the most unjustifiable, public declarations, from a throne ever renowned for truth, honour, and unsullied virtue. I am sure, all foreigners, especially the king of Prussia, will hold the minister in contempt and abhorrence. He has made our sovereign declare, *My expectations have been fully answered by the happy effects which the several allies of my crown have derived from this salutary measure of the definitive Treaty. The powers at war with my good brother, the King of Prussia, have been induced to agree to such terms of accommodation, as that great prince has approved; and the success which has attended my negotiation, has necessarily and immediately diffused the blessings of peace through every part of Europe.* The infamous fallacy of this whole sentence is apparent to all mankind: for it is known, that the King of Prussia did not barely *approve*, but absolutely dic-

tated, as conqueror, every article of the terms of peace. No advantage of any kind has accrued to that magnanimous prince from *our negociations*, but he was basely deserted by the *Scottish* prime-minister of *England*. He was known by every court in Europe to be scarcely on better terms of friendship *here*, than at *Vienna*; and he was betrayed by us in the *treaty of peace*. What a strain of insolence, therefore, is it in a minister to lay claim to what he is conscious all his efforts tended to prevent, and meanly to arrogate to himself a share in the fame and glory of one of the greatest princes the world has ever seen? The king of Prussia, however, has gloriously kept *all* his former conquests, and stipulated security for all his allies, even for the *elector of Hanover*. I know in what light this great prince is considered in Europe, and in what manner he has been treated here; among other reasons, perhaps, from some contemptuous expressions he may have used of the *Scot*: expressions which are every day echoed by the whole body of *Englishmen* through the southern part of this island.

The *Preliminary Articles of Peace* were such as have drawn the contempt of mankind on our wretched negotiators. All our most valuable conquests were agreed to be restored, and the *East India Company* would have been infallibly ruined by a single article of this fallacious and baneful negotiation. No hireling of the minister has been hardy enough to dispute this; yet the minister himself has made our sovereign declare, *the satisfaction which he felt at the approaching re-establishment of peace upon conditions so honourable to his crown, and so beneficial to his people*. As to the *entire approbation* of parliament, which is so vainly boasted of, the world knows how that was obtained. The large debt on the *Civil List*, already above half a year in arrear, shews pretty clearly the transactions of the winter. It is, however, remarkable, that the minister's speech dwells on the *entire approbation* given by parliament to the *Preliminary Articles*, which I will venture to say, he must by this time be ashamed of; for he has been brought to confess the total want of that knowledge, accuracy and precision, by which such immense advantages both of trade and territory, were sacrificed to our inveterate enemies. These gross blunders are, indeed, in some measure set right by the *Definitive Treaty*; yet, the most important articles, relative to *cessions, commerce*, and the *FISHERY*, remain as they were, with respect to the French. The proud and feeble Spaniard,

too, does not RENOUNCE, but only DESISTS from all pretensions, which he may have formed, to the right of fishing — where? only about the island of NEWFOUNDLAND — till a favourable opportunity arises of insisting on it, there, as well as elsewhere.

The minister cannot forbear, even in the *King's Speech*, insulting us with a dull repetition of the word *economy*. I did not expect so soon to have seen that word again, after it had been so lately exploded, and more than once, by a most numerous audience, *hissed* off the stage of our English theatres. It is held in derision by the *voice of the people*, and every tongue loudly proclaims the universal contempt, in which these empty professions are held by *this* nation. Let the public be informed of a single instance of *economy*, except indeed in the household. Is a regiment, which was compleated as to its compliment of officers on the *Tuesday*, and broke on the *Thursday*, a proof of *economy*? Is the pay of the *Scottish Master Elliot* to be voted by an *English* parliament, under the head of *economy*? Is this, among a thousand others, one of the convincing proofs of a *firm resolution to form government on a plan of strict economy*? Is it not notorious, that in the reduction of the army, not the least attention has been paid to it? Many unnecessary expenses have been incurred, only to increase the power of the crown, that is, to create more lucrative jobs for the creatures of the minister. The *staff* indeed is broke, but the discerning part of mankind immediately comprehended the mean subterfuge, and resented the indignity put upon so brave an officer, as marshal Ligonier. That step was taken to give the whole power of the army to the crown, that is, to the minister. Lord Ligonier is now no longer at the head of the army; but Lord Bute in effect is: I mean that every preferment given by the crown will be found still to be obtained by *his* enormous influence, and to be bestowed only on the creatures of the *Scottish* faction. The nation is still in the same deplorable state, while *he* governs, and can make the tools of *his* power pursue the same odious measure. Such a retreat, as he intends, can only mean that personal indemnity, which, I hope, guilt will never find from an injured nation. The negociations of the late inglorious *peace*, and the *excise*, will haunt him, wherever he goes, and the terrors of the just resentment, which he must be to meet from a brave and insulted people, and which must finally crush him, will be for ever before his eyes.

In vain will such a minister, or the foul dregs of his power, the tools of corruption and despotism, preach up in *the speech that spirit of concord, and that obedience to the laws, which is essential to good order*. They have sent the *spirit of discord* through the land, and I will prophecy, that it will never be extinguished, but by the extinction of their power. Is the *spirit of concord* to go hand in hand with the *Peace and Excise thro' this nation*? Is it to be expected between an insolent *Exciseman*, and a *peer, gentleman, freeholder, or farmer*, whose private houses are now made liable to be entered and searched at pleasure? Gloucestershire, Herefordshire, and in general all the *Cyder countries*, are not surely the *several counties* which are alluded to in the *speech*. The *spirit of concord* hath not gone forth among them; but the *spirit of liberty* has, and a noble opposition has been given to the wicked instruments of oppression. A nation as sensible as the English, will see that a *spirit of concord*, when they are oppressed, means a tame submission to injury, and that a *spirit of liberty* ought then to arise, and I am sure ever will, in proportion to the weight of the grievance they feel. *Every legal attempt of a contrary tendency to the spirit of concord will be deemed a justifiable resistance, warranted by the spirit of the English constitution*.

A despotic minister will always endeavour to dazzle his prince with high-flown ideas of the *prerogative and honour of the crown*, which the minister will make a parade of *firmly maintaining*. I wish as much as any man in the kingdom to see *the honour of the crown* maintained in a manner truly becoming to *Royalty*. I lament to see it sunk even to prostitution. What a shame was it to see the security of this country, in point of military force complimented away, contrary to the opinion of *Royalty* itself, and sacrificed to the prejudices and to the ignorance of a set of people, the most unfit from every consideration to be consulted on a matter relative to the security of the *house of Hanover*! I wish to see *the honour of the crown* religiously asserted with regard to our allies, and the dignity of it scrupulously maintained with regard to foreign princes. Is it possible such an indignity can have happened, such a sacrifice of *the honour of the crown of England*, as that a minister should already have kissed his majesty's hand on being appointed to the most insolent and ungrateful court in the world, without a previous assurance of that reciprocal nomination which the meanest court in Europe would insist upon, before she pro-

ceeded to an act otherwise so derogatory to her honour? But *Electoral Policy* has ever been obsequious to the court of Vienna, and forgets the insolence with which count Colloredo left England. Upon a principle of *dignity* and *economy*, lord Stormont, a Scottish peer of the loyal house of Murray, kissed his Majesty's hand I think on Wednesday in the Easter week; but this ignominious act has not yet disgraced the nation in the *London Gazette*. The ministry are not ashamed of doing the thing in private; they are only afraid of the publication. Was it a tender regard for the *honour* of the late king, or of his present majesty, that invited to court lord George Sackville, *in these first days of Peace*, to share in the general satisfaction, which all good courtiers received in the indignity offered to lord Ligonier, and on the advancement of—? Was it to show *princely* gratitude to the eminent services of the accomplished general of the house of Brunswick, who has had so great a share in rescuing Europe from the yoke of France; and whose nephew we hope soon to see made happy in the possession of the most amiable princess in the world? Or, is it meant to assert *the honour of the crown* only against the united wishes of a loyal and affectionate people, founded in a happy experience of the talents, integrity, and virtue of those, who have had the glory of redeeming their country from bondage and ruin, in order to support, by every art of corruption and intimidation, a weak disjointed, incapable set of—I will call them any thing but ministers—by whom the *Favourite* still meditates to rule this kingdom with a rod of iron.

The Stuart line has ever been intoxicated with the slavish doctrines of the *absolute, independent, unlimited* power of the crown. Some of that line were so weakly advised, as to endeavour to reduce them into practice; but the English nation was too spirited to suffer the least encroachment on the ancient liberties of this kingdom. The King of England is only the first magistrate of this country; but is invested by law with the whole executive power. He is, however, responsible to his people for the due execution of the royal functions, in the choice of ministers, etc., equally with the meanest of his subjects in his particular duty. The personal character of our present amiable sovereign makes us easy and happy that so great a power is lodged in such hands; but the *favourite* has given too just cause for him to escape the general odium. The *prerogative* of the crown is to exert the constitutional powers entrusted to it in a way, not of blind

favour and partiality, but of wisdom and judgment. This is the spirit of our constitution. The people too have their *prerogative*, and I hope, the fine words of Dryden will be engraven on our hearts:

Freedom *is* the English subject's Prerogative.

(*The North Briton*, ed. Wilkes, Churchill and others, Lond., 1772. No. 45.)

CHAPTER XXVIII

AMERICAN INDEPENDENCE

202. The Question of Taxation

Grenville

The American Colonies, in their opposition to taxation without representation, gave much opportunity for parliamentary eloquence. The resulting speeches so well epitomise the contending opinions of the statesmen of England upon the current question, that four of them have been selected to place before the reader the views held by the English nation at large. The first of these speeches was delivered by Mr. George Grenville, who had recently been Premier. Only a brief extract has been given, but that contains the main argument of those who favoured taxation.

I cannot understand the difference between external and internal taxes. They are the same in effect, and differ only in name. That this kingdom has the sovereign, the supreme legislative power over America is granted; it cannot be denied; and taxation is a part of that sovereign power. It is one branch of the legislation. It is, it has been, exercised over those who are not, who were never represented. It is exercised over the India Company, the merchants of London, the proprietors of the stocks, and over many great manufacturing towns. It was exercised over the county palatine of Chester and the bishopric of Durham, before they sent any representatives to Parliament. I appeal for proof to the preambles of the Acts which gave them representatives: one in the reign of Henry VIII, the other in that of Charles II. When I proposed to tax America, I asked the House if any gentleman would object to the right; I repeatedly asked it, and no man would attempt to deny it. Protection and obedience are reciprocal. Great Britain protects America; America is bound to yield obedience. If not, tell me when the Americans were emancipated? When they want the protection of this kingdom they are always very ready to ask for it. That protection has always been afforded them in the most

full and ample manner. The nation has run herself into an immense debt to give them their protection; and now, when they are called upon to contribute a small share toward the public expense — an expense arising from themselves — they renounce your authority, insult your officers, and break out — I might almost say — into open rebellion. The seditious spirit of the colonies owes its birth to the factions in this House. Gentlemen are careless of the consequences of what they say, provided it answers the purposes of opposition. We were told we trod on tender ground. We were bid to expect disobedience. What is this but telling the Americans to stand out against the law, to encourage their obstinacy with the expectation of support from hence? "Let us only hold out a little," they would say; "our friends will soon be in power." Ungrateful people of America! Bounties have been extended to them. When I had the honour of serving the Crown, while you yourselves were loaded with an enormous debt you gave bounties on their lumber, on their iron, their hemp, and many other articles. You have relaxed in their favour the Act of Navigation, that palladium of the British commerce; and yet I have been abused in all the public papers as an enemy to the trade of America. I have been particularly charged with giving orders and instructions to prevent the Spanish trade, and thereby stopping the channel by which alone North America used to be supplied with cash for remittances to this country. I defy any man to produce any such orders or instructions. I discouraged no trade but what was illicit, what was prohibited by an Act of Parliament. I desire a West India merchant, well known in the city, a gentleman of character, may be examined. He will tell you that I offered to do everything in my power to advance the trade of America. I was above giving an answer to anonymous calumnies; but in this place it becomes one to wipe off the aspersion.

(*British Orations*, ed. C. K. Adams, N. Y., 1897. I, 106.)

203. The Policy of Conciliation

Chatham

Lord Chatham was a consistent upholder of the rights of the American Colonies in their contention with Parliament. No one saw more clearly than he the possible consequences of persistence in oppression, and in his most famous speech on the subject, from which we have quoted a portion, he well sets forth the grievances of the Americans.

The gentleman asks, when were the colonies emancipated?

I desire to know, when were they made slaves? But I dwell not upon words. When I had the honour of serving his Majesty, I availed myself of the means of information which I derived from my office. I speak, therefore, from knowledge. My materials were good. I was at pains to collect, to digest, to consider them; and I will be bold to affirm that the profits to Great Britain from the trade of the colonies, through all its branches, is two millions a year. This is the fund that carried you triumphantly through the last war. The estates that were rented at two thousand pounds a year, threescore years ago, are at three thousand at present. Those estates sold then from fifteen to eighteen years' purchase; the same may now be sold for thirty. You owe this to America. This is the price America pays you for her protection. And shall a miserable financier come with a boast that he can bring "a pepper-corn" into the exchequer by the loss of millions to the nation? I dare not say how much higher these profits may be augmented. Omitting the immense increase of people, by natural population, in the northern colonies, and the emigration from every part of Europe, I am convinced on other grounds that the commercial system of America may be altered to advantage. You have prohibited where you ought to have encouraged. You have encouraged where you ought to have prohibited. Improper restraints have been laid on the continent in favour of the islands. You have but two nations to trade with in America. Would you had twenty! Let acts of Parliament in consequence of treaties remain; but let not an English minister become a custom-house officer for Spain, or for any foreign power. Much is wrong! Much may be amended for the general good of the whole...

A great deal has been said without doors of the power, of the strength of America. It is a topic that ought to be cautiously meddled with. In a good cause, on a sound bottom, the force of this country can crush America to atoms. I know the valour of your troops. I know the skill of your officers. There is not a company of foot that has served in America, out of which you may not pick a man of sufficient knowledge and experience to make a governor of a colony there. But on this ground, on the Stamp Act, which so many here will think a crying injustice, I am one who will lift up my hands against it.

In such a cause, your success would be hazardous. America, if she fell, would fall like the strong man; she

would embrace the pillars of the State, and pull down the Constitution along with her. Is this your boasted peace — not to sheathe the sword in its scabbard, but to sheathe it in the bowels of your countrymen? Will you quarrel with yourselves, now the whole house of Bourbon is united against you: while France disturbs your fisheries in Newfoundland, embarrasses your slave trade to Africa, and withholds from your subjects in Canada their property stipulated by treaty: while the ransom for the Manillas is denied by Spain, and its gallant conqueror basely traduced into a mean plunderer; a gentleman whose noble and generous spirit would do honour to the proudest grandee of the country? The Americans have not acted in all things with prudence and temper; they have been wronged; they have been driven to madness by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and temper come first from this side. I will undertake for America that she will follow the example. There are two lines in a ballad of Prior's, of a man's behaviour to his wife, so applicable to you and your colonies that I cannot help repeating them:

“Be to her faults a little blind;
Be to her virtues very kind.”

Upon the whole, I will beg leave to tell the House what is my opinion. It is, that the Stamp Act be repealed absolutely, totally, and immediately. That the reason for the repeal be assigned, namely, because it was founded on an erroneous principle. At the same time, let the sovereign authority of this country over the colonies be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever; that we may bind their trade, confine their manufactures, and exercise every power whatsoever, except that of taking their money out of their pockets without their consent.

(*British Orations*, ed. cit., I, 113.)

204. The Right to Tax

Mansfield

In the speech from which the following selections have been made, Lord Mansfield delivered a most able argument upon the purely legal aspect of the question of taxing the colonies. The speech was declared by one of his opponents to be absolutely uncontrovertible as an argument on the law of the question at issue.

There can be no doubt, my Lords, but that the inhabitants

of the colonies are as much represented in Parliament as the greatest part of the people of England are represented; among nine millions of whom there are eight which have no votes in electing members of Parliament. Every objection, therefore, to the dependency of the colonies upon Parliament, which arises to it upon the ground of representation, goes to the whole present Constitution of Great Britain, and I suppose it is not meant to new-model that too. People may form speculative ideas of perfection, and indulge their own fancies or those of other men. Every man in this country has his particular notion of liberty; but perfection never did, and never can, exist in any human institution. To what purpose, then, are arguments drawn from a distinction—in which there is no real difference—of a virtual and actual representation? A member of Parliament, chosen for any borough, represents not only the inhabitants and constituents of that particular place, but he represents the inhabitants of every other borough in Great Britain. He represents the city of London and all the other commons of this land, and the inhabitants of all the colonies and dominions of Great Britain; and is, in duty and conscience, bound to take care of their interests.

I have mentioned the customs and the post tax. This leads me to answer another distinction, as false as the above: the distinction of internal and external taxes. The noble Lord who quoted so much law and denied upon those grounds the right of the Parliament of Great Britain to lay internal taxes upon the colonies, allowed at the same time that restrictions upon trade and duties upon the ports were legal. But I cannot see a real difference in this distinction; for I hold it to be true that a tax laid in any place is like a pebble falling into and making a circle in a lake, till one circle produces and gives motion to another and the whole circumference is agitated from the centre. For nothing can be more clear than that a tax of ten or twenty per cent. laid upon tobacco, either in the ports of Virginia or London, is a duty laid upon the inland plantations of Virginia, a hundred miles from the sea, wheresoever the tobacco grows.

I do not deny but that a tax may be laid injudiciously and injuriously, and that people in such a case may have a right to complain. But the nature of the tax is not now the question; whenever it comes to be one, I am for lenity. I would have no blood drawn. There is, I am satisfied, no occasion for any to be drawn. A little time and experience of the in-

conveniences and miseries of anarchy may bring people to their senses...

I am far from bearing any ill-will to the Americans; they are a very good people, and I have long known them. I began life with them, and owe much to them, having been much concerned in the plantation causes before the Privy Council; and so I became a good deal acquainted with American affairs and people. I dare say their heat will soon be over, when they come to feel a little the consequences of their opposition to the Legislature. Anarchy always cures itself; but the ferment will continue so much the longer while hot-headed men there find that there are persons of weight and character to support and justify them here.

Indeed, if the disturbances should continue for a great length of time, force must be the consequence, an application adequate to the mischief and arising out of the necessity of the case; for force is only the difference between a superior and subordinate jurisdiction. In the former the whole force of the Legislature resides collectively, and when it ceases to reside the whole connection is dissolved. It will, indeed, be to very little purpose that we sit here enacting laws and making resolutions, if the inferior will not obey them, or if we neither can nor dare enforce them; for then — and then, I say, of necessity — the matter comes to the sword. If the offspring are grown too big and too resolute to obey the parent, you must try which is the strongest, and exert all the powers of the mother country to decide the contest.

I am satisfied, notwithstanding, that time, and a wise and steady conduct, may prevent those extremities which would be fatal to both. I remember well when it was the violent humour of the times to decry standing armies and garrisons as dangerous and incompatible with the liberty of the subject. Nothing would do but a regular militia. The militia are embodied; they march; and no sooner was the militia law thus put into execution, but it was then said to be an intolerable burden upon the subject, and that it would fall, sooner or later, into the hands of the Crown. That was the language, and many counties petitioned against it. This may be the case with the colonies. In many places they begin already to feel the effects of their resistance to government. Interest very soon divides mercantile people; and, although there may be some mad, enthusiastic, or ill-designing people in the colonies, yet I am convinced that the greatest bulk, who have understanding and property, are still well affected

to the mother country. You have, my Lords, many friends still in the colonies; and take care that you do not, by abdicating your own authority, desert them and yourselves, and lose them forever...

But, my Lords, I shall make this application of it. You may abdicate your right over the colonies. Take care, my Lords, how you do so; for such an act will be irrevocable. Proceed, then, my Lords, with spirit and firmness; and when you shall have established your authority, it will then be a time to show your lenity. The Americans, as I said before, are a very good people, and I wish them exceedingly well; but they are heated and inflamed. The noble Lord who spoke before ended with a prayer. I cannot end better than by saying to it, Amen; and in the words of Mauricè, Prince of Orange, concerning the Hollanders, "God bless this industrious, frugal, and well-meaning, but easily deluded people!"

(*British Orations*, ed. cit., I, 161.)

205. The Character of the Colonists

Burke

The great Irish orator, Edmund Burke, was a warm advocate of the American cause. In his most noted speech on the subject, he voiced the opinion general in England, though not in Parliament, that the love of liberty would call the colonists to great deeds if they were driven to desperation. His words form a just and comprehensive summing-up of the judgment of the most intelligent Englishmen of that day.

But there is still behind a third consideration concerning this object, which serves to determine my opinion on the sort of policy which ought to be pursued in the management of America, even more than its population and its commerce — I mean its character and temper. In this character of the Americans a love of freedom is the predominating feature, which marks and distinguishes the whole; and, as an ardent is always a jealous affection, your colonies become suspicious, restive, and untractable, whenever they see the least attempt to wrest from them by force, or shuffle from them by chicane, what they think the only advantage worth living for. This fierce spirit of liberty is stronger in the English colonies, probably, than in any other people of the earth; and this from a variety of powerful causes, which, to understand the true temper of their minds and the direction which this spirit takes, it will not be amiss to lay open somewhat more largely.

First, the people of the colonies are descendants of Englishmen. England, sir, is a nation which still, I hope, respects, and formerly adored, her freedom. The colonists emigrated from you when this part of your character was most predominant; and they took this bias and direction the moment they parted from your hands. They are, therefore, not only devoted to liberty, but to liberty according to English ideas and on English principles. Abstract liberty, like many other abstractions, is not to be found. Liberty inheres in some sensible object; and every nation has formed to itself some favourite point which, by way of eminence, becomes the criterion of their happiness. It happened, you know, sir, that the great contests for freedom in this country were from the earliest times chiefly upon the question of taxation. Most of the contests in the ancient commonwealths turned primarily on the right of election of magistrates, or on the balance among the several orders of the State. The question of money was not with them so immediate. But in England it was otherwise. On this point of taxes the ablest pens and most eloquent tongues have been exercised, the greatest spirits have acted and suffered. In order to give the fullest satisfaction concerning the importance of this point, it was not only necessary for those who in argument defended the excellence of the English Constitution to insist on this privilege of granting money as a dry point of fact, and to prove that the right had been acknowledged in ancient parchments and blind usages to reside in a certain body called the House of Commons; they went much farther. They attempted to prove — and they succeeded — that in theory it ought to be so, from the particular nature of a House of Commons as an immediate representative of the people, whether the old records had delivered this oracle or not. They took infinite pains to inculcate, as a fundamental principle, that in all monarchies the people must in effect themselves, mediately or immediately, possess the power of granting their own money, or no shadow of liberty could subsist. The colonies draw from you, as with their life-blood, those ideas and principles. Their love of liberty, as with you, fixed and attached on this specific point of taxing. Liberty might be safe or might be endangered in twenty other particulars, without their being much pleased or alarmed. Here they felt its pulse; and as they found that beat, they thought themselves sick or sound. I do not say whether they were right or wrong in applying your general arguments to their own case.

It is not easy, indeed, to make a monopoly of theorems and corollaries. The fact is that they did thus apply those general arguments; and your mode of governing them, whether through lenity or indolence, through wisdom or mistake, confirmed them in the imagination that they, as well as you, had an interest in these common principles.

They were further confirmed in these pleasing errors by the form of their provincial legislative assemblies. Their governments are popular to a high degree; some are merely popular; in all, the popular representative is the most weighty; and this share of the people in their ordinary government never fails to inspire them with lofty sentiments and with a strong aversion from whatever tends to deprive them of their chief importance...

Sir, I can perceive from their manner that some gentlemen object to the latitude of this description, because in the southern colonies the Church of England forms a large body and has a regular establishment. It is certainly true. There is, however, a circumstance attending these colonies which, in my opinion, fully counterbalances this difference and makes the spirit of liberty still more high and haughty than in those to the northward. It is that in Virginia and the Carolinas they have a vast multitude of slaves. Where this is the case in any part of the world, those who are free are by far the most proud and jealous of their freedom. Freedom is to them not only an enjoyment, but a kind of rank and privilege. Not seeing there that freedom, as in countries where it is a common blessing and as broad and general as the air, may be united with much abject toil, with great misery, with all the exterior of servitude, liberty looks, among them, like something that is more noble and liberal. I do not mean, sir, to commend the superior morality of this sentiment, which has at least as much pride as virtue in it; but I cannot alter the nature of man. The fact is so; and these people of the southern colonies are much more strongly, and with a higher and more stubborn spirit, attached to liberty than those to the northward. Such were all the ancient commonwealths; such were our Gothic ancestors; such, in our days, were the Poles; and such will be all masters of slaves who are not slaves themselves. In such a people the haughtiness of domination combines with the spirit of freedom, fortifies it, and renders it invincible.

CHAPTER XXIX

UNION BETWEEN GREAT BRITAIN AND IRELAND

206. The Union Advocated

Castlereagh

The influence of Lord Castlereagh had much to do with effecting the union. Castlereagh and Flood were probably the best hated men in Ireland, being looked upon as traitors, but they exercised a power which was undiminished by any personal scruples. That their cause prevailed was owing neither to its popularity nor its justice, but to the methods employed by its advocates and the English Government.

It is said, that an union will reduce Ireland to the abject state of a colony. Is it by making her a constituent part of the greatest and first empire in the world? For my part, if I were to describe a colony, I should picture a country in a situation somewhat similar to the present state of Ireland. I should describe a country, whose crown was dependent on that of another country, enjoying a local legislature, but without any power intrusted to that legislature of regulating the succession of that crown. I should describe it as having an executive power administered by the orders of a non-resident minister, irresponsible to the colony for his acts or his advice; I should describe it as incapable of passing the most insignificant law without the licence of the minister of another country; I should describe it as a country unknown to foreign nations in the quality of an independent state, and as subject to another power with regard to all the questions which concern alliances, the declaration and conduct of war, or the negotiations for peace.

Another objection has been started, that an imperial parliament cannot be possessed of such local knowledge of the kingdom as is necessary for the due encouragement of its interests. But I ask, what is there to prevent the representatives of Ireland from carrying with them to the imperial parliament all their local knowledge of the wants and interests of Ireland? And what is there to prevent an imperial

parliament from attending as anxiously to the concerns of this part of the empire, as to the concerns of the west of England, or the affairs of Scotland?

It has also been asserted, that an union would have the effect of weakening the executive power in Ireland. Convinced as I am, that Ireland cannot exist without a strong executive power, and that the lives and properties of its loyal inhabitants cannot be otherwise secured, I could not argue in favour of the advantages which are promised by this measure, were it to be followed by such a consequence. But I am so confident of the opposite effect, that it is upon this very principle of giving new vigor to the executive power, and of giving additional security to the persons and properties of the inhabitants, that I embrace the measure. It is an union alone that can give us strength, by removing the cause of our weakness. It will take away from the executive power all those jealousies, which hang upon its motions and prevent its constitutional effects: it will preclude the plausible insinuation, that we are governed by the influence of a parliament in which we are not represented; that we are directed by the counsels of ministers who are irresponsible; that our interests are sacrificed to those of Great Britain; in short, it will remove all those constitutional awkwardnesses and anomalies which render all the exertions of the executive power suspected and inefficient, and, by rendering it unpopular, diminish and counteract its influence.

There is another objection, which has been strongly urged and plausibly supported. It is this—that our parliament has, from the circumstance of its being local, been able to make exertions for suppressing the rebellion, which an imperial parliament would not have attempted. I most cordially admit, that the Irish parliament has most materially assisted the government by arming it with those ample powers which have been employed to suppress the rebellion. But, if it was parliament that gave the powers, it was the cabinet that employed them. And I ask, by what constitutional scruples would an imperial parliament be prevented from giving the same powers in similar circumstances, or the ministers of the empire be arrested in the exercise of them? And is it agreeable to common sense, or truth, that the acts of the parliament of the empire would have less authority than the acts of only a part of the empire?

It has also been said, that a local parliament alone could have traced and developed the conspiracy which produced

the late rebellion. Here is a mistake in point of fact. It was not the local parliament, but the executive government which discovered the conspiracy. It was the government that detected the plans of the traitors; and it was upon the documents produced by the government that the accurate report of the secret committee was formed. The merits of the report in disclosing the information as a warning to the public, after the treason was detected and defeated, may be ascribed to the parliament; but the discovery of the conspiracy, and the suppression of the rebellion, arose from the energies of the executive government...

Having now gone through the outline of the plan with as much conciseness as possible, I trust I have proved to every man who hears me, that the proposal is such an one as is at once honourable for Great Britain to offer, and for Ireland to accept. It is one which will entirely remove from the executive power those anomalies which are the perpetual sources of jealousy and discontent. It is one which will relieve the apprehensions of those who feared that Ireland was, in consequence of an union, to be burthened with the debt of Britain. It is one which, by establishing a fair principle of contribution, tends to release Ireland from an expence of one million in time of war, and of £500,000 in time of peace. It is one which increases the resources of our commerce, protects our manufactures, secures to us the British market, and encourages all the produce of our soil. It is one that, by uniting the ecclesiastical establishments, and consolidating the legislatures of the empire, puts an end to religious jealousy, and removes the possibility of separation. It is one that places the great question, which has so long agitated the country, upon the broad principles of imperial policy, and divests it of all its local difficulties. It is one that establishes such a representation for the country, as must lay asleep for ever the question of parliamentary reforms, which, combined with our religious divisions, has produced all our distractions and calamities.

(History of the Union between Great Britain and Ireland, C. Coote, Lond., 1802. p. 339.)

207. Grattan Opposes the Union

Grattan

The projected union of Ireland with Great Britain provoked bitter hostility in the former country. The adherents of the measure were made the objects of scathing invective by the press and their parliamentary opponents. Of those who most

strenuously fought the union, none stands higher than Henry Grattan, a portion of whose finest speech in opposition to the measure is given below.

I have done with the pile which the minister batters — I come to the Babel which he builds — and, as he throws down without a principle, so does he construct without a foundation. This fabric he calls an union; and to this his fabric there are two striking objections. First, it is no union — it is not an identification of the people, for it excludes the catholics: 2dly, It is a consolidation of the legislatures; that is to say, it merges the Irish parliament, and incurs every objection to an union, without obtaining the only object which an union professes: it is an extinction of the constitution, and an exclusion of the people. I say, he excludes the catholics for ever, and for the very reason which he and his advocates hold out as the ground of expectation — that hereafter, in a course of time (he does not say when), if they behave themselves (he does not say how), they may see their case submitted to a course of discussion (he does not say with what result or determination); and, as the ground for the inane period, in which he promises nothing, in which he can promise nothing, and in which, if he did promise much, he would at so remote a period be able to perform nothing, unless he, like the evil he has accomplished, be immortal; — for this innate sentence, in which he can scarcely be said to deceive the catholic, or suffer the catholic to deceive himself, he exhibits no other ground than the physical inanity of the catholic body accomplished by an union, which, as it destroys the relative importance of Ireland, destroys also the relative proportion of its catholic inhabitants, who thus become admissible, because they cease to be any thing. Hence, according to him, their brilliant expectation; “you were,” say his advocates, and so imports his argument, “before the union, as three to one — you will be by the union as one to four.” — Thus he founds their hopes of political power on the extinction of physical consequence, and makes the inanity of their body and the non-entity of their country the pillars of their future ambition. Let me add, that even if catholics should be admitted into parliament by the articles of union, it would be of little avail to the body. What signifies it to the body, whether a catholic individual be an insignificant unit in the English parliament or in the street; in either case he would be nothing — he would belong to

nothing — he would have nothing to which he could belong — no country — no Irish people — no Irish nation.

(*History of the Union of the Kingdoms of Great Britain and Ireland*,
C. Coote, Lond., 1802. p. 322.)

208. Act of Union between Great Britain and Ireland

Collection of Statutes, Evans

The union between Great Britain and Ireland was the result of fraud, trickery, and coercion, combined with good intentions and upright dealing. The union was not popular at its formation, nor has it ever become so. The ties existing between England and Ireland have from the earliest history of the two countries been of the nature of chains. The Irish antagonism to England has never faltered, though it has changed in nature and expression. Yet the union has been maintained for more than a century, and is not likely to become dissolved in the near future.

UNION BETWEEN GREAT BRITAIN AND IRELAND

(40 GEO. III, c. 67. July 2, 1800)

AN ACT FOR THE UNION OF GREAT BRITAIN AND IRELAND

(*Preamble*)

ARTICLE I

That it be the first article of the Union of the kingdoms of Great Britain and Ireland, that the said kingdoms of Great Britain and Ireland shall, upon the first day of January which shall be in the year of our Lord one thousand eight hundred and one, and for ever after, be united into one kingdom, by the name of *the United Kingdom of Great Britain and Ireland*; and that the royal style and titles appertaining to the imperial crown of the said united kingdom and its dependencies; and also the ensigns, armorial flags, and banners thereof, shall be such as his Majesty, by his royal proclamation under the great seal of the united kingdom, shall be pleased to appoint.

ARTICLE II

That it be the second article of Union, that the succession to the imperial crown of the said united kingdom, and of the dominions thereunto belonging, shall continue limited and settled in the same manner as the succession to the imperial crown of the said kingdoms of Great Britain and Ireland now stands limited and settled, according to the existing laws, and to the terms of Union between England and Scotland.

ARTICLE III

That it be the third article of Union, that the said united kingdom be represented in one and the same Parliament, to be styled The Parliament of the United Kingdom of Great Britain and Ireland.

ARTICLE IV

That it be the fourth article of Union, that four Lords Spiritual of Ireland by rotations of sessions, and twenty-eight Lords Temporal of Ireland elected for life by the peers of Ireland, shall be the number to sit and vote on the part of Ireland in the House of Lords of the Parliament of the united kingdom; and one hundred commoners (two for each county of Ireland, two for the city of Dublin, two for the city of Cork, one for the university of Trinity College, and one for each of the thirty-one most considerable cities, towns, and boroughs) be the number to sit and vote on the part of Ireland in the House of Commons of the Parliament of the united kingdom:

That such Act as shall be passed in the Parliament of Ireland previous to the Union, to regulate the mode by which the Lords Spiritual and Temporal, and Commons, to serve in the Parliament of the united kingdom on the part of Ireland, shall be summoned and returned to the said Parliament, shall be considered as forming part of the treaty of Union, and shall be incorporated in the Act of the respective Parliaments by which the said Union shall be ratified and established:

That all questions touching the rotation or election of Lords Spiritual or Temporal of Ireland to sit in the Parliament of the united kingdom, shall be decided by the House of Lords thereof; and whenever, by reason of an equality of votes in the election of any such Lords Temporal, a complete election shall not be made according to the true intent of this article, the names of those peers for whom such equality of votes shall be so given, shall be written on pieces of paper of a similar form, and shall be put into a glass, by the Clerk of the Parliaments at the table of the House of Lords whilst the House is sitting; and the peer or peers whose name or names shall be first drawn out by the Clerk of the Parliaments, shall be deemed the peer or peers elected, as the case may be:

That any person holding any peerage of Ireland now subsisting, or hereafter to be created, shall not thereby be dis-

qualified from being elected to serve, if he shall so think fit, or from serving or continuing to serve, if he shall so think fit, for any county, city, or borough of Great Britain, in the House of Commons of the united kingdom, unless he shall have been previously elected as above, to sit in the House of Lords of the united kingdom; but that so long as such peer of Ireland shall so continue to be a member of the House of Commons, he shall not be entitled to the privilege of peerage, nor be capable of being elected to serve as a peer on the part of Ireland, or of voting at any such election; and that he shall be liable to be sued, indicted, proceeded against, and tried as a commoner, for any offence with which he may be charged:

That it shall be lawful for his Majesty, his heirs and successors, to create peers of that part of the united kingdom called Ireland, and to make promotions in the peerage thereof, after the Union; provided that no new creation of any such peers shall take place after the Union until three of the peerages of Ireland, which shall have been existing at the time of the Union, shall have become extinct; and upon such extinction of three peerages, that it shall be lawful for his Majesty, his heirs and successors, to create one peer of that part of the united kingdom called Ireland; and in like manner as often as three peerages of that part of the united kingdom called Ireland shall become extinct, it shall be lawful for his Majesty, his heirs and successors, to create one other peer of the said part of the united kingdom; and if it shall happen that the peers of that part of the united kingdom called Ireland shall, by extinction of peerages or otherwise, be reduced to the number of one hundred, exclusive of all such peers of that part of the united kingdom called Ireland, as shall hold any peerage of Great Britain subsisting at the time of the Union, or of the united kingdom, created since the Union, by which such peers shall be entitled to an hereditary seat in the House of Lords of the united kingdom, then and in that case it shall and may be lawful for his Majesty, his heirs and successors, to create one peer of that part of the united kingdom called Ireland, as often as any one of such one hundred peerages shall fail by extinction, or as often as any one peer of that part of the united kingdom called Ireland shall become entitled, by descent or creation, to an hereditary seat in the House of Lords of the united kingdom; it being the true intent and meaning of this article, that at all times after the Union, it shall and may be lawful for his

Majesty, his heirs and successors, to keep up the peerage of that part of the united kingdom called Ireland to the number of one hundred, over and above the number of such of the said peers as shall be entitled, by descent or creation, to an hereditary seat in the House of Lords of the united kingdom:

That if any peerage shall at any time be in abeyance, such peerage shall be deemed and taken as an existing peerage; and no peerage shall be deemed extinct, unless on default of claimants to the inheritance of such peerage for the space of one year from the death of the person who shall have been last possessed thereof; and if no claim shall be made to the inheritance of such peerage, in such form and manner as may from time to time be prescribed by the House of Lords of the united kingdom, before the expiration, of the said period of a year, then and in that case such peerage shall be deemed extinct; provided that nothing herein shall exclude any person from afterwards putting in a claim to the peerage so deemed extinct; and if such claim shall be allowed as valid, by judgment of the House of Lords of the united kingdom, reported to his Majesty, such peerage shall be considered as revived; and in case any new creation of a peerage of that part of the united kingdom called Ireland, shall have taken place in the interval, in consequence of the supposed extinction of such peerage, then no new right of creation shall accrue to his Majesty, his heirs or successors, in consequence of the next extinction which shall take place of any peerage of that part of the united kingdom called Ireland:

That all questions touching the election of members to sit on the part of Ireland in the House of Commons of the united kingdom shall be heard and decided in the same manner as questions touching such elections in Great Britain now are, or at any time hereafter shall by law be heard and decided; subject nevertheless to such particular regulations in respect of Ireland as, from local circumstances, the Parliament of the united kingdom may from time to time deem expedient.

That the qualifications in respect of property of the members elected on the part of Ireland to sit in the House of Commons of the united kingdom, shall be respectively the same as are now provided by law in the cases of elections for counties and cities and boroughs respectively in that part of Great Britain called England, unless any other provision shall hereafter be made in that respect by Act of Parliament of the united kingdom.

That when his Majesty, his heirs or successors, shall declare his, her, or their pleasure for holding the first or any subsequent Parliament of the united kingdom, a proclamation shall issue, under the great seal of the united kingdom, to cause the Lords Spiritual and Temporal, and Commons, who are to serve in the Parliament thereof on the part of Ireland, to be returned in such manner as by any Act of this present session of Parliament of Ireland shall be provided; and that the Lords Spiritual and Temporal and Commons of Great Britain shall, together with the Lords Spiritual and Temporal and Commons so returned as aforesaid on the part of Ireland, constitute the two Houses of Parliament of the united kingdom:

(The next clause provides for a temporary personnell of the first Parliament after the Union.)

That the Lords of Parliament on the part of Ireland, in the House of Lords of the united kingdom, shall at all times have the same privileges of Parliament which shall belong to the Lords of Parliament on the part of Great Britain; and the Lords Spiritual and Temporal respectively on the part of Ireland shall at all times have the same rights in respect of their sitting and voting upon the trial of peers, as the Lords Spiritual and Temporal respectively on the part of Great Britain; and that all Lords Spiritual of Ireland shall have rank and precedence next and immediately after the Lords Spiritual of the same rank and degree of Great Britain, and shall enjoy all privileges as fully as the Lords Spiritual of Great Britain do now or may hereafter enjoy the same (the right and privilege of sitting in the House of Lords, and the privileges depending thereon, and particularly the right of sitting on the trial of peers, excepted); and that the persons holding any temporal peerages of Ireland, existing at the time of the Union, shall, from and after the Union, have rank and precedence next and immediately after all the persons holding peerages of the like orders and degree in Great Britain, subsisting at the time of the Union; and that all peerages of Ireland created after the Union shall have rank and precedence with the peerages of the united kingdom, so created, according to the dates of their creations; and that all peerages both of Great Britain and Ireland, now subsisting or hereafter to be created, shall in all other respects, from the date of the Union, be considered as peerages of the united kingdom; and that the peers of Ireland shall, as peers of the united kingdom, be sued and tried as peers, except as afore-

said, and shall enjoy all privileges of peers as fully as the peers of Great Britain; the right and privilege of sitting in the House of Lords, and the privileges depending thereon, and the right of sitting on the trial of peers, only excepted:

ARTICLE V

That it be the fifth article of Union, That the churches of England and Ireland, as now by law established, be united into one Protestant Episcopal Church, to be called The United Church of England and Ireland; and that the doctrine, worship, discipline, and government of the said united church shall be, and shall remain in full force for ever, as the same are now by law established for the church of England; and that the continuance and preservation of the said united church, as the established church of England and Ireland, shall be deemed and taken to be an essential and fundamental part of the Union; and that in like manner the doctrine, worship, discipline, and government of the church of Scotland, shall remain and be preserved as the same are now established by law, and by the Acts for the Union of the two kingdoms of England and Scotland.

ARTICLE VI

That it be the sixth article of Union, That his Majesty's subjects of Great Britain and Ireland shall, from and after the first day of January one thousand eight hundred and one, be entitled to the same privileges, and be on the same footing, as to encouragements and bounties on the like articles being the growth, produce, or manufacture, of either country respectively, and generally in respect of trade and navigation in all ports and places in the united kingdom and its dependencies; and that in all treaties made by his Majesty, his heirs and successors, with any foreign power, his Majesty's subjects of Ireland shall have the same privileges, and be on the same footing, as his Majesty's subjects of Great Britain:

(The remaining clauses of this article deal with the duties upon articles respectively imported and exported between the kingdoms, two schedules being given.)

ARTICLE VII

(Provides that the interest and sinking fund for the reduction of the debt of either kingdom shall continue to be sepa-

rately defrayed. Also provides for the expenditures of the united kingdom.)

ARTICLE VIII

(Provides that existing laws and courts of jurisdiction within the respective kingdoms may be altered at pleasure of the united Parliament. Also provides for appeal.)

(Evans' *Collection of Statutes*, ed. cited, VIII, 462.)

PART VIII

THE NINETEENTH CENTURY

CHAPTER XXX

EMANCIPATION

209. The "No-Popery" Riots

Waxall

The movement to relieve the Catholics of some of the disabilities from which they suffered provoked violent opposition at first. Lord George Gordon, a fanatic nobleman, headed an agitation which, had it been more ably led, might have worked lasting harm to England. As it was, the rioters for a time were masters of London, and their excesses alone prevented them from inaugurating a revolution, instead of a mere revolt. They were finally overcome and dispersed, and Lord George, the instigator of the outrages committed, consigned to prison. He soon after professed the Jewish faith. He died in prison.

I was personally present at many of the most tremendous effects of the popular fury, on the memorable 7th of June, the night on which it attained its highest point. About nine o'clock on that evening, accompanied by three other gentlemen, who, as well as myself, were alarmed by the accounts brought in every moment, of the outrages committed; and of the still greater acts of violence meditated, as soon as darkness should favour and facilitate their further progress; we set out from Portland-place, in order to view the scene. Having got into a hackney-coach, we drove to Bloomsbury-square; attracted to that spot by a rumour generally spread, that lord Mansfield's residence, situated at the north-east corner, was either already burnt, or destined for destruction. Hart street, and Great Russell street, presented, each, to the view as we passed, large fires composed of furniture taken from the houses of magistrates, or other obnoxious individuals. Quitting the coach, we crossed the square and had scarcely got under the wall of Bedford House, when we heard the door of lord Mansfield's house burst open with violence. In a few minutes, all the contents of the apartments being precipitated from the windows, were piled up, and wrapped in flames. A file of foot-soldiers arriving, drew up near the blazing pile; but, without either attempt-

ing to quench the fire, or to impede the mob, who were indeed far too numerous to admit of their being dispersed, or even intimidated, by a small detachment of infantry. The populace remained masters; while we, after surveying the spectacle for a short time, moved on into Holborn, where Mr. Langdale's dwelling house and warehouse afforded a more appalling picture of devastation. They were altogether enveloped in smoke and flame. In front had assembled an immense multitude of both sexes, many of whom were females, and not a few held infants in their arms. All appeared to be, like ourselves, attracted as spectators solely by curiosity, without taking any part in the acts of violence. The kennel of the street ran down with spirituous liquors, and numbers of the populace were already intoxicated with this beverage. So little disposition, however, did they manifest to riot, or pillage, that it would have been difficult to conceive who were the authors and perpetrators of such enormous mischief, if we had not distinctly seen at the windows of the house, men, who while the floors and rooms were on fire, calmly tore down the furniture, and threw it into the street, or tossed it into the flames. They experienced no kind of opposition, during a considerable time that we remained at the place: but a party of the horse guards arriving, the terrified crowd instantly began to disperse; and we, anxious to gratify our further curiosity, continued our progress on foot, along Holborn, towards Fleet Market.

I would in vain attempt adequately to describe the spectacle which presented itself, when we reached the declivity of the hill, close to St. Andrew's Church. The other house and magazines of Mr. Langdale, who, as a Catholic, had been selected for the blind vengeance of the mob; situated in the hollow, near the north end of Fleet Market, threw up into the air a pinnacle of flame resembling a volcano. Such was the beautiful and brilliant effect of the allumination, that St. Andrew's church appeared to be almost scorched by the heat of so prodigious a body of fire; and the figures on the clock were as distinctly perceptible as at noon-day. It resembled indeed a tower, rather than a private building, in a state of conflagration; and would have inspired the beholder with a sentiment of admiration allied to pleasure, if it had been possible to separate the object from its causes and its consequences. The wind did not however augment its rage on this occasion; for the night was serene, and the sky unclouded, except when it became obscured by the volumes of

smoke, which, from time to time produced a temporary darkness. The mob, which completely blocked up the whole street in every part, and in all directions, prevented our approaching within fifty or sixty yards of the building, but the populace, though still principally composed of persons allured by curiosity, yet evidently began here to assume a more disorderly and ferocious character. Troops, either horse or foot, we still saw none; nor, in the midst of this combination of tumult, terror and violence, had the ordinary police ceased to continue its functions.

While we stood by the wall of St. Andrew's churchyard, a watchman, with a lanthorn in his hand, passed us, calling the hour, as if in time of profound tranquillity.

Finding it altogether impracticable to force our way any further down Holborn Hill, and hearing that the Fleet Prison had been set on fire; we penetrated through a number of narrow lanes, behind St. Andrew's church, and presently found ourselves in the middle of Fleet Market. Here, the same destruction raged, but in a different stage of its progress. Mr. Langdale's houses were already at the height of their demolition: the Fleet Prison on the contrary was only beginning to blaze, and the sparks or flaming particles that filled the air, fell so thick upon us on every side, as to render unsafe its immediate vicinity, meanwhile we began to hear the platoons discharged on the other side of the river, towards St. George's Fields; and were informed, that a considerable number of rioters had been killed on Blackfriars Bridge, which was occupied by the troops. On approaching it, we beheld the King's Bench Prison completely wrapt in flames. It exhibited a sublime sight, and we might be said there to stand in a central point, from which London offered on every side, before, as well as behind us, the picture of a city sacked and abandoned to a ferocious enemy. The shouts of the populace, the cries of women, the crackling of the fires, the blaze reflected in the stream of the Thames, and the irregular firing which was kept up both in St. George's Fields, as well as towards the quarter of the mansion-house, and the bank;—all these sounds, or images combined, left scarcely any thing for the imagination to supply; presenting to the view every recollection, which the classic descriptions in Virgil, or in Tacitus, have impressed on the mind in youth, but which I so little expected to see exemplified in the capital of Great Britain.

210. Speech of King George on Catholic Emancipation

Annual Register

For more than a century Catholics had been subjected to many disabilities. They were not only excluded from holding civil office, but every relation of life was affected. The repressive legislation harassed the Catholics in the possession of their property, the education of their children, and the exercise of their religion. Such an attitude toward Catholic citizens resulted in agitation looking toward emancipation, a number of Protestants joining in the movement. The final conflict with intolerance was begun in 1778, with Sir George Saville's measure for the relief of Roman Catholics. It was carried on by Pitt, Grenville, Grattan, Canning, and other leaders, until in 1829 came the last struggle, which was to end in Catholic emancipation. The necessity of such a measure had been accentuated by the condition of Ireland. The King's Address, given below, was the first step in the movement of the session. It was a surprise and disaster to the intolerant party. It aroused the bitterest invective; but the majority, Protestants as well as Catholics, welcomed the promise of support which it bore, and which alone their cause had lacked for success.

My Lords and Gentlemen:

The state of Ireland has been the object of His Majesty's continued solicitude.

His Majesty laments that in that part of the United Kingdom an Association should still exist, which is dangerous to the public peace, and inconsistent with the spirit of the Constitution; which keeps alive discord and ill-will amongst His Majesty's subjects; and which must, if permitted to continue, effectually obstruct every effort permanently to improve the condition of Ireland.

His Majesty confidently relies on the wisdom and on the support of his parliament; and His Majesty feels assured that you will commit to him such powers that may enable His Majesty to maintain his just authority.

His Majesty recommends that, when his essential object shall have been accomplished, you should take into your deliberate consideration the whole condition of Ireland, and that you should review the laws which impose civil disabilities on His Majesty's Roman Catholic subjects.

You will consider whether the removal of these disabilities can be effected consistently with the full and permanent security of our establishments in church and state, with the maintenance of the reformed religion established by law, and of the rights and privileges of the bishops and of the

clergy of this realm, and of the churches committed to their charge.

These are institutions which must ever be held sacred in this Protestant kingdom, and which it is the duty and determination of his Majesty to preserve inviolate.

His Majesty most earnestly recommends to you to enter upon the consideration of a subject of such paramount importance, deeply interesting to the best feelings of his people, and involving the tranquillity and concord of the United Kingdoms, with the temper and the moderation which will best ensure the successful issue of your deliberations.

(*Annual Register*, 1829, v. 71, 5.)

211. Speech of the Attorney-General against the Catholic Emancipation Bill

Annual Register

The opponents of the Emancipation Bill were not entirely influenced by religious intolerance. The relation of Church and State was considered by many a very buckler of English independence, and any measure likely to weaken the influence of the Church of England was thought by them to be dangerous to the welfare of the realm. The following speech, though intemperate in its language, well sums up the main arguments of the opponents of the Bill.

... When he, the Attorney-general of the king, was called on to frame an act of parliament, it was not unnatural that he should look, as a lawyer, to a higher authority than himself, namely the lord Chancellor. How could the Attorney-general prepare a bill, which the lord Chancellor had declared would subvert the Protestant church of England? and he thought he was placing himself under a strong shield, when he took his position behind the buckler of lord Chancellor Lyndhurst. "When my attention was drawn to the framing of this bill, I felt it my duty to look over the oath taken by the lord Chancellor, as well as that taken by the Attorney-general; and it was my judgment, right or wrong, that, when desired to frame this bill, I was called to draw a bill subversive of the Protestant church, which his Majesty was bound by his coronation oath to support. If his Majesty chose to dispense with the obligations of the coronation oath, he might do so, but I would do no act to put him in jeopardy. These are the grounds on which I refused, and would refuse a hundred times over, to put one line to paper of what constitutes the atrocious bill now before the House. Hundreds of those who now listen to me must remember the

able, valuable, and impressive speech delivered two years ago by the present lord Chancellor, then Master of the Rolls, and a member of this House. It will also be in the recollection of hundreds that that eminent individual, than whom none is more acute in reasoning, more classical in language, and more powerful in delivery, then Master of the Rolls, but now lord Chancellor, quarrelled with the late Mr. Canning on this very subject. Am I then to blame for refusing to do that in the subordinate office of Attorney-general, which a more eminent adviser of the Crown, only two years ago, declared, he would not consent to do? Am I, then, to be twitted, taunted, and attacked? I dare them to attack me. I have no speech to eat up. I have no apostacy disgracefully to explain. I have no paltry subterfuge to resort to. I have not to say that a thing is black one day, and white another. I have not been in one year a Protestant Master of the Rolls, and in the next a Catholic lord Chancellor. I would rather remain as I am, the humble member for Plympton, than be guilty of such apostacy — such contradiction — such unexplainable conversion — such miserable, contemptible apostacy."

The Attorney-general then entered into an examination of the bill itself, which, he said, he was doubtful whether members understood. It contained an oath to be taken, instead of the present oaths of abjuration and supremacy which had excluded the Catholics. But there was no provision in the bill which confined this oath to Catholics. It was an oath which any man might take, whether Catholic or not. A person, who was not a Catholic, might, by taking it, enjoy the privileges of a Catholic. The oath ought to have stated, "I am a Catholic, and swear so and so." But the bill did not require any such declaration. He supposed that this was an imitation of James the Second's scheme of liberty of conscience.

Peel and Co. were supported on the principles of James II. For the effect of the oath was, that any man might gain admission to office, or to the House of Commons; whereas he understands the object of the alteration to be, that only those, who swore they were Catholics, were to be permitted to take the oath. Another clause supposed that a man, who was a Catholic, might be prime minister; it gave a general capacity to office. All offices, said the bill, are open to Catholics, with one or two exceptions; ecclesiastical appointments, however, were to be separated from the patronage, and vested in

commissions. Now, Catholics had never manifested an unambitious temper, and a Catholic prime minister would never be satisfied with this retrenchment of his privileges. And who was to appoint the commissioners? Why, a Protestant lord Chancellor, lord Lyndhurst. The lord Chancellor would have the appointment to ecclesiastical places; but was this sufficient security? Lord Shaftesbury was a Protestant chancellor, and so was lord Jeffries. Was the conduct of Jeffries to the bishops forgotten?—a man who, though a Protestant, was as great an enemy to Protestants, and as adverse to admitting them to power, as Father Peter himself. The protection of the Great Seal was as little to be relied on as in the reign of Charles II., when lord Shaftesbury was chancellor, or in that of James II., when Jeffries filled that office. There might come a time, when no security would be found in the character of a lord Chancellor. And who would the commissioners select? Would they select Protestants who would, or those who would not, apostatize. According to the bill, any Catholic, who took ecclesiastical preferment, was guilty of a misdemeanour, and could hold his office no longer; and again, any Catholic, who advised His Majesty respecting the appointment to an ecclesiastical office, was subject to the same penalty. Might he be permitted to ask who drew that clause? the very clause, which created the offence, contained an absolute prevention of a conviction for that offence. The church of Ireland was protected by a flimsy sort of security in the bill. None of the dignities of the Romish church were to be permitted, *eo nomine*, to hold English titles, as nominees of the pope; but these titles might be held by virtue of a money medium; a 50 *l* bank note would enable Dr. Doyle, or Dr. Curtis, or any other, to sport Catholic titles. The bill forbade this, except upon the payment of 50 *l.*, which was all the penalty inflicted. There was no penalty in the act higher than 200 *l.*, so that, in fact, the whole protection of the British constitution consisted in penalties of 50 *l.*, 100 *l.*, and 200 *l.* No control over the see of Rome; none over the nomination of the bishops; nothing after the passing of this bill in the way of security for the Protestant establishment—but those penalties of 50 *l.*, 100 *l.*, and 200 *l.* This was the declared value of the Protestant constitution of the empire in current coin. When this bill was dissected and anatomized, it destroyed itself. It admitted the danger, and yet provided no security for Protestants. He would not have condescended to stultify him-

self by the composition of such a bill. He refused to draw it up. The folly and the contradictions be upon the heads of those who drew it. They might have turned him out of office; but he would not be made such a dirty tool as to draw that bill. Let who would, he would not defile pen, or waste paper, by such an act of folly, and forfeit his character for common sense and honesty. He had, therefore, declined to have anything to do with it.

(*Annual Register*, for 1829, vol. 71, p. 55.)

212. Speech of Lord Plunkett for the Emancipation Bill

Annual Register

The speeches made in favour of the Emancipation Bill are in general far more dignified and logical than those of its opponents. The supporters of the measure rested their cause upon the argument of the inalienable right of every man to citizenship and equality under the law; and they buttressed their case with historical as well as polemical arguments. The speech which follows is indicative of the general attitude of the friends of emancipation.

Lord Plunkett said, that he had reserved himself for the purpose of hearing the unanswerable arguments against the bill, which lord Eldon on former occasions had threatened he would produce when the measure was fairly before the House.

As that noble and learned lord, however, had brought forth nothing but the *ipse dixit* of his own authority, unsustained either by ingenious argument, by historical deduction, or by an appeal to public and authenticated documents, he felt himself so far absolved from the necessity of refuting anticipated arguments for which he had prepared himself, that he would address his observations more particularly to the position that the bill was calculated to subvert the Protestant constitution.

According to lord Eldon, the established principle of the Reformation had been to exclude Roman Catholics from Parliament and from offices; and therefore it was that the Oath of Supremacy was framed. Now the 5th of Elizabeth did not go so far as to exclude Roman Catholics from sitting in that House, and not only was there an exception as to the House of Peers, but the reason of the exception was stated. The reason was this — because the queen was otherwise assured, not of the religion, but of the loyalty of such Roman Catholics as were peers of Parliament. Then the Oath of Supremacy was a test, not of religion, but of loyalty. The

members of the lower House were called upon to take the oath. It was the policy of Elizabeth to gain the Catholics; and for that purpose she changed the Articles and the Liturgy of the Church of England, as framed by Edward 6th, and adopted the communion service, to suit the Roman Catholics, and to enable them to join in communion with the Protestants. Passages, containing an expressed denial of the real presence, were expunged; and for thirteen years after the Reformation did the Roman Catholics take the Oath of Supremacy, and join in communion with the Church of England. They continued to be admitted to all the offices of the state till towards the latter end of the reign of the Stuarts. The Roman Catholics then became suspected, not on account of their religion, but owing to their supposed adherence to the designs of the throne. The throne became first disaffected to the liberties of the subject; and from the reign of Charles 1st the Roman Catholics came to be considered as enemies to the state through their adherence to the king. In a subsequent reign the king himself was a Catholic; and, the throne being thus a convert to their religion, and making inroads upon the public liberty, the Roman Catholics became more and more suspected; and, in point of fact, though not of law, they were very generally excluded from Parliament in the reign of Charles 2nd because the people were prejudiced against them. Till the 25th Charles 2nd, the Roman Catholics had contrived occasionally to get into Parliament; and how did the Protestant leaders get them out of the House of Commons, as they took the Oath and Declaration? Why, they brought into operation the law against recusancy, which prohibited persons convicted of recusancy from coming within ten miles of the cities of London and Westminster, and thus effectually prevented them from doing duty in Parliament. They therefore got a conviction of recusancy, and then called for a new writ. This was a decisive proof that, before the 30th of Charles 2nd, there was nothing to prevent the Roman Catholics from sitting in Parliament. That statute itself contained two enactments,—the first, that Roman Catholics should not sit in Parliament without making the Declaration, and the second that persons not making the Declaration should be excluded from access to the king. There was a third enactment, which banished such persons ten miles from the cities of London and Westminster. This was a law of the land; and what had become of that law? That member of it, which

related to the penalties against recusancy, was gone; for all the laws relating to recusancy had been repealed. Then the enactment as to access to the king, that had also been repealed. So here was a limb of this immortal law lopped off; leaving only the mutilated bust of Titus Oates to represent this immortal statute, till the act of William 3rd. He would not pretend that there might not be good reason for enacting it, or that the Catholics might not be dangerous, or that they ought not to have been excluded from office owing to their adherence to the dangerous designs of the Crown. But what was meant by saying that that law was consummated at the Revolution? Was that act of 30th Charles 2nd incorporated in the Bill of Rights? No such thing. Did the Bill of Rights trouble itself with all the trumpery of the invocation of saints and transubstantiation? No such thing. The framers of that bill thought only of settling the principles of the constitution so far as they had been invaded, and they had not room in their heads for the consideration of such things as these. They scouted such trash and trumpery, whilst they were intent upon securing the rights and liberties of their fellow-subjects which had been invaded by the Crown. These wise and great men were no system-mongers, no grinders of theories or dogmas, but sound and practical statesmen; and no light toil had they incurred. There were thirteen particulars stated. The Bill of Rights did not say, upon abstract principle, that the Church and State are necessarily Protestants, but it stated — "Whereas it has been found by experience that it is necessary to the safety and welfare of this Protestant kingdom that the throne should be unalterably Protestant:" and it then goes on to enact, that, should the king become a Papist, or marry a Papist, he should thereby forfeit his title to the throne, it being found by experience that such a security was necessary for this Protestant kingdom. He had been asked, whether this was a Protestant kingdom; he had been asked triumphantly, was this not a Protestant government, a Protestant Parliament? In one sense he admitted it was a Protestant kingdom, but did not exclude Papists. So he admitted that the Parliament was essentially and predominantly Protestant, and in that sense, but in no other, the Parliament was Protestant. The act of 1st of William 3rd forbade Papists to carry arms; this was considered as necessary to the security of this Protestant state. The principle of that act was transferred to the Bill of Rights, which recognized the claim of the Protestants to

carry arms, but did not refer to the right of the Roman Catholics to carry arms. Those, who argued by inference, took advantage of this; but it so happened that throughout the Bill of Rights this was the only passage the construction of which was hostile to the Roman Catholics; and this was the only passage in it which had been repealed. It had been repealed by an act of George 2nd, which also repealed the law by which Roman Catholics were forbidden access to the throne. By the law previous to 30th Charles 2nd, no person could be admitted into the army unless he had previously taken the Oath of the Declaration; but by that act, he could take the oath subsequent to taking the commission. Then came the act of William, saying that that provision was not a sufficient security, and that the oath must be taken previously. Then the present law precisely and practically repealed the act of William, for it restored the matter to the state it was in at the period of the 25th Charles 2nd; and the act, for which lord Eldon had told their lordships he was responsible, had taken greater liberties with the Bill of Rights than the noble duke had done. Their lordships probably had not been apprised, when the act of 1817 passed, that they were repealing the act of king William. The act recited, "Whereas by certain laws now in existence, there were sundry embarrassments in respect to the oaths taken by the army and navy," — and, in order to clear up doubts, and to assimilate one to the other, it enacted that the oaths prescribed by the former act need not be taken. Thus was there an utter abandonment of the act of William, and that too without providing any oath or security in its stead. The present bill did not give the Roman Catholics any benefit without an oath, an oath too, which combined in its language every possible security that such a form could afford; but under the act of the noble and learned lord, the provisions of king William's act were done away, and not even an oath was substituted in their stead.

(*Annual Register for 1829*, vol. 71, p. 92.)

213. The Duke of Wellington on Emancipation

Annual Register

The attitude of the Ministry was set forth in a brief speech by the duke of Wellington at the close of the debate. While there is little in the utterance beyond a personal explanation of the secrecy maintained, it is inserted as being the final word on the great question which had for so many years troubled the heart of England.

The debate was closed by a brief reply from the duke of Wellington. The apprehended danger to the Irish Church from the admission of a few Catholics into Parliament, he treated as futile, considering that the throne would be filled by a Protestant. Moreover, a fundamental article of the Union between the two countries was the union of the two Churches; and it was impossible that any mischief could happen to the Irish branch of this united Church, without destroying the union of the two countries. "A different topic," said his grace, "to which I wish to advert, is a charge brought against several of my colleagues, and also against myself, by the noble earl on the cross-bench, of a want of consistency in our conduct. My lords, I admit that many of my colleagues, as well as myself, did on former occasions vote against a measure of a similar description with this; and, my lords, I must say, that my colleagues and myself felt, when we adopted this measure, that we should be sacrificing ourselves and our popularity to that which we felt to be our duty to our sovereign and our country. We knew very well, that if we put ourselves at the head of the Protestant cry of 'No Popery,' we should be much more popular even than those who had excited against us that very cry. But we felt that in so doing we should have left on the interests of the country a burthen which must end in bearing them down, and further that we should have deserved the hate and execration of our countrymen. Then I am accused, and by a noble and learned friend of mine, of having acted with great secrecy respecting this measure. Now I beg to tell him, that he has done that to me in the course of this discussion which he complains of others having done to him;—in other words, he has, in the language of a right hon. friend of his and mine, thrown a large paving-stone instead of throwing a small pebble. I say, that if he accuses me of acting with secrecy on this question, he does not deal with me altogether fairly. He knows as well as I do how the Cabinet was constructed on this question; and I ask him, had I any right to say a single word to any man whatsoever upon this measure, until the person most interested in the kingdom upon it had given his consent to my speaking out? Before he accused me of secrecy, and of improper secrecy too, he ought to have known the precise day upon which I received the permission of the highest personage in the country, and had leave to open my mouth upon this measure. There is another point also on which a noble earl accused me of misconduct; and

that is, that I did not at once dissolve the Parliament. Now I must say that I think noble lords are mistaken in the notion of the benefits which they think that they would derive from a dissolution of Parliament at this crisis. I believe that many of them are not aware of the consequences and of the inconveniences of a dissolution of Parliament at any time. But when I know, as I did know, and as I do know, the state of the elective franchise in Ireland, — when I recollected the number of men it took to watch one election which took place in Ireland in the course of last summer, — when I knew the consequences which a dissolution would produce on the return to the House of Commons, to say nothing of the risks which must have been incurred at each election, — of collisions that might have lead to something little short of a civil war, — I say, that, knowing all these things, I should have been wanting in duty to my sovereign and to my country, if I had advised his Majesty to dissolve his Parliament."

(Annual Register for 1829, vol. 71, p. 94.)

214. The End of Jewish Disability

Annual Register

The long persecution of the Jewish race, which had been a blot upon the civilization of England as upon that of nearly all European countries, was finally ended with the admission of Baron Rothschild into Parliament. This measure of justice and tolerance was not effected without opposition, but the sentiment of the country was overwhelmingly in favour of the step, and its execution was not attended with grave difficulty.

On the 26th of July, that honourable member, being conducted to the table by Lord John Russell and Mr. J. A. Smith, stated, on the oath being read to him, that he could not conscientiously take it in the form in which it was tendered. He was then directed to withdraw. Upon this Lord John Russell moved a resolution, simply stating that Baron Rothschild was prevented by conscientious objections from taking the oath. This resolution, after an ineffectual protest from Mr. Warren, was agreed to: whereupon Lord John Russell moved a second resolution in the following terms: — "That any persons professing the Jewish religion may henceforth, in taking the oath prescribed in an Act of the present Session of Parliament to entitle him to sit and vote in this House, omit the words, 'and I make this declaration upon the true faith of a Christian.'"

A debate ensued, in which Mr. Warren threatened to

divide the House. Lord Hotham said he had not intended to vote, but, being called upon to decide, felt bound to oppose the resolution. Mr. Walpole said he had always regarded this as a religious rather than a political question. He did not think Jews ought to sit in a Christian legislature: and must oppose the resolution. But he was bound to say that Baron Rothschild had never permitted himself to do one act contrary to the law of the land. He also said that the course taken could not be too much deprecated, and if the Jews were to be admitted they ought to have been admitted in a frank and honest manner. Let them not suppose, however, that they were closing the question. Mr. Spooner and Mr. Newdegate repeated their objections to the proceeding. Mr. Fox expressed his conviction that the House had never acted more in accordance with the spirit of a Christian legislature than they were about to do by the admission of Jews to Parliament. Lord John Russell reminded Mr. Walpole that the mode of settling the question had not been proposed by the advocates for the admission of the Jews. "It is not our choice but the choice of the other House of Parliament." Mr. Walpole said this was not the end of the question; but he trusted none would hereafter attempt to deprive the Jews of the privilege about to be conferred upon them.

On a division the resolution was carried by 69 to 37. Baron Rothschild, being again introduced, was greeted by loud cheers. He took the oath on the Old Testament, omitting the words, "on the true faith of a Christian," and took his seat on the Opposition benches. Thus ended the long controversy which had for so many years divided the two Houses of Parliament.

(*Annual Register for 1858*, vol. 100, p. 163.)

215. The Oaths Act

(21 & 22 VIC., c. 48, July 23, 1858)

Statutes of the Realm

While the recognition of Jews as possessing equal rights removed the great barriers against any inhabitant of the realm, it was not until 1858 that all citizens were legally placed upon the same footing in regard to their nominal duties. The oaths of allegiance to be taken by a Catholic, a Protestant, and a Jew differed in form, though but little in substance. At length, in the year named, the last distinction was removed, and a general form of oath was devised. The "rider" to the Bill, whereby the act of participating in the Sacrament of Communion was not made obligatory upon aspirants for office, was the last needful concession to liberty and justice.

AN ACT TO SUBSTITUTE ONE OATH FOR THE OATHS OF ALLEGIANCE, SUPREMACY, AND ABJURATION; AND FOR THE RELIEF OF HER MAJESTY'S SUBJECTS PROFESSING THE JEWISH RELIGION

Whereas it is expedient that One Oath should be substituted for the Oaths of Allegiance, Supremacy, and Abjuration now required by law: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. Instead of the Oaths of Allegiance, Supremacy, and Abjuration, where the same are now by Law required to be taken, and taken and subscribed respectively, the following Oath shall be taken and subscribed:

"I, A. B., do swear, that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria, and will defend Her to the utmost of my Power against all Conspiracies and Attempts whatever which shall be made against Her Person, Crown or Dignity, and I will do my utmost Endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all Treasons and traitorous Conspiracies which may be formed against Her or them; and I do faithfully promise to maintain, support, and defend, to the utmost of my Power, the Succession of the Crown, which Succession, by an Act, intituled 'An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject,' is and stands limited to the Princess Sophia Electress of Hanover, and the Heirs of Her Body being Protestants, hereby utterly renouncing and abjuring any Obedience or Allegiance unto any other Person claiming or pretending a Right to the Crown of this Realm; and I do declare that no foreign Prince, Person, Prelate, State, or Potentate hath or ought to have any Jurisdiction, Power, Superiority, Pre-eminence, or Authority ecclesiastical or spiritual within this Realm; and I make this Declaration upon the true Faith of a Christian. So help me God."

II. Wherein the Oath hereby appointed the Name of Her present Majesty is expressed or referred to, the Name of the Sovereign of this Kingdom for the Time being, by Virtue of the Act "for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject," shall be

substituted from Time to Time, with proper Words of Reference thereto.

III. The Oath hereby appointed shall be taken and subscribed in the same Cases, and by and before the same Persons, and at the same Times and Places, as the Oaths of Allegiance, Supremacy, and Abjuration are respectively now directed to be taken, and taken and subscribed; and the taking and subscribing of the Oath hereby appointed shall have the like Effect as the taking, and taking and subscribing respectively of the Oaths of Allegiance, Supremacy, and Abjuration would have had if this Act had not been passed; and the Refusal, Neglect, or Omission to take and subscribe the Oath hereby appointed shall be attended with the like Disabilities, Incapacities, Penalties, Liabilities, and Consequences, as now by Law provided in the Case of Refusal, Neglect or Omission to take, or take and subscribe respectively the Oaths of Allegiance, Supremacy, and Abjuration; and all Provisions now in Force shall be construed and take effect accordingly: Provided always, that no Person, having before the Commencement of this Act taken the Oaths of Allegiance, Supremacy and Abjuration, shall be required to take and subscribe the Oath hereby appointed, unless and until he would be by Law required to take the said Oaths of Allegiance, Supremacy, and Abjuration in Case this Act had not been passed.

IV. Provided always, that every Person of the Persuasion of the People called Quakers, and every other Person now by Law permitted to make his solemn Affirmation or Declaration instead of taking an Oath, shall, instead of taking and subscribing the Oath hereby appointed, make and subscribe a solemn Affirmation in the Form of the Oath hereby appointed, substituting the Words "solemnly, sincerely, and truly declare and affirm" for the Word "swear," and omitting the Words "And I make this Declaration upon the true faith of a Christian. So help me God;" and the making and subscribing of such Affirmation by a Person hereinbefore authorized to make and subscribe the same, with such Omission as aforesaid, shall have the same Force and Effect as the taking and subscribing by other Persons of the Oath hereby appointed.

V. And whereas by a certain Act passed in the Ninth Year of the Reign of King George the Fourth, intituled "An Act for repealing so much of the several Acts as imposes the Necessity of receiving the Sacrament of the Lord's Supper as a

qualification of certain Offices and Employments," a certain Declaration is prescribed to be taken in the Cases in the said Act mentioned: And whereas, by an Act passed in the Ninth Year of the Reign of Her present Majesty, intituled "An Act for the relief of Persons of the Jewish Religion elected to Municipal Offices," a certain other Declaration was permitted to be taken in certain Cases by Persons professing the Jewish Religion, instead of the Declaration required to be made and subscribed by the said Act of King George the Fourth: And whereas it is right to extend the Benefit of the last-recited Act to all other Cases in which the Declaration set forth in the said Act of the Ninth Year of the Reign of King George the Fourth is by Law required to be taken: Be it enacted, That in all Cases which are not in the Provisions of the said Act of the Ninth Year of the Reign of Her Majesty, in which any other of Her Majesty's subjects are required by Law to make and subscribe the Declaration set forth in the said Act of the Ninth Year of the Reign of King George the Fourth, Her Majesty's Subjects professing the Jewish Religion shall be required instead thereof to make and subscribe the Declaration set forth in the said Act of the Ninth Year of the Reign of Her present Majesty, which Declaration shall, with respect to such Person professing the Jewish Religion, be of the same Force and Effect as if he made and subscribed the said Declaration by the said Act of the Ninth Year of the Reign of King George the Fourth, and shall be made and subscribed at the same Times and Places respectively, and preserved of Record in the same Manner as the last-mentioned Declaration is now by Law required to be made, subscribed, and preserved.

VI. Provided also, that nothing in this Act contained shall be held to alter or affect the Provisions of the Act passed in the Tenth Year of King George the Fourth, Chapter Seven, "for the Relief of His Majesty's Roman Catholic Subjects."

(*Annual Register for 1858*, vol. 100, p. 238.)

216. The Jewish Relief Act

(21 & 22 VICT., c. 49, July 23, 1858)

Annual Register

On the same day as that on which was passed the Oaths Act, there was passed a measure for defining the privileges of the Jews more clearly than this had yet been done. While the first portion of the Act is almost similar to the provisions contained in the Oaths Act, the latter portion expressly continues certain disabilities made necessary by the connection between Church and State. As a citizen, the Jew was to be henceforth regarded

as the peer of the Christian; but certain functions which trenched on the ecclesiastical ground were still withheld.

AN ACT TO PROVIDE FOR THE RELIEF OF HER MAJESTY'S SUBJECTS PROFESSING THE JEWISH RELIGION

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the Authority of the same, as follows:

I. Where it shall appear to either House of Parliament that a Person professing the Jewish Religion, otherwise entitled to sit and vote in such House, is prevented from so sitting and voting by his conscientious Objections to take the Oath which by an Act passed or to be passed in the present Sessions of Parliament has been or may be substituted for the Oaths of Allegiance, Supremacy, and Abjuration in the Form therein required, such House, if it think fit, may resolve that henceforth any Person professing the Jewish Religion, in taking the same Oath to entitle him to sit and vote as aforesaid, may omit the Words "and I make this Declaration upon the true Faith of a Christian," and so long as such Resolution shall continue in force the said Oath, when taken and subscribed by any Person professing the Jewish Religion to entitle him to sit and vote in that House of Parliament, may be modified accordingly; and the taking and subscribing by any Person professing the Jewish Religion of the Oath so modified shall, so far as respects the Title to sit and vote in such House, have the same Force and Effect as the taking and subscribing by other Persons of the said Oath in the Form required by the said Act.

II. In all other Cases, except for sitting in Parliament as aforesaid, or in qualifying to exercise the Right of Presentation to any Ecclesiastical Benefice in Scotland, whenever any of Her Majesty's Subjects professing the Jewish Religion shall be required to take the said Oath, the Words "and I make this Declaration upon the true Faith of a Christian" shall be omitted.

III. Nothing herein contained shall extend or be construed to extend to enable any Person or Persons professing the Jewish Religion to hold or exercise the Office of Guardians and Justices of the United Kingdom, or of Regent of the United Kingdom, under whatever Name, Style, or Title such Office may be constituted, or of Lord High Chancellor, Lord Keeper or Lord Commissioner of the Great Seal

of Great Britain or Ireland, or the Office of Lord Lieutenant or Deputy or other Chief Governor or Governors of Ireland, or Her Majesty's High Commissioner to the General Assembly of the Church of Scotland.

IV. Where any Right of Presentation to any Ecclesiastical Benefice shall belong to any Office in the Gift or Appointment of her Majesty, Her Heirs or Successors, and such Office shall be held by a Person professing the Jewish Religion, the Right of Presentation shall devolve upon and be exercised by the Archbishop of Canterbury for the Time being; and it shall not be lawful for any Person professing the Jewish Religion, directly or indirectly, to advise Her Majesty, Her Heirs or Successors, or any Person or Persons holding or exercising the Office of Guardians of the United Kingdom, or of Regent of the United Kingdom, under whatever Name, Style, or Title such Office may be constituted, or the Lord Lieutenant or Lord Deputy, or any other Chief Governor or Governors of Ireland, touching or concerning the Appointment to or disposal of any Office or Preferment in the United Church of England and Ireland, or in the Church of Scotland; and if such Person shall offend in the Premises he shall, being thereof convicted by due Course of Law, be deemed guilty of a high Misdemeanor, and disabled for ever from holding any Office, Civil or Military, under the Crown.

(Annual Register for 1858, ed. cit., p. 241.)

217. The End of the Slave Trade

Cobbett

The great struggle against slavery was fought out in the nineteenth century. Then it was that the question of emancipation of the negroes was agitated by the whole world. The movement resulted in the freedom of the negroes held in bondage by civilized nations, and in ending exportations of slaves from Africa. The success of the English movement was only brought about by a long and arduous combat on the part of its adherents, but it was largely instrumental in the general abolition of the system. The following extract portrays the closing scenes attending the passage of the Emancipation Act.

Lord Grenville moved the order of the day for taking into consideration the amendments made by the house of commons in the Slave Trade Abolition bill. His lordship observed that the object of the greater part of these amendments was to enforce penalties and forfeitures upon those carrying on the trade, after the period fixed by parliament

for its abolition, which it was not the practice of that house to enact. These amendments, therefore, were merely calculated the better to carry into effect the principle of the bill. With respect to the amendment in the preamble, leaving out the words, declaring the trade to be contrary to justice, humanity, and sound policy, it would not be imagined after what he had said upon the subject, that his opinion had sustained any alteration. It having, however, been thought right by the House of Commons to make this alteration, in order that the feelings of those concerned in the trade might not be wounded, he had no objection to it.

The Bishop of Landaff rose to deliver his opinion of the bill, which he had not till then an opportunity of doing. The right reverend prelate observed, that in judging of the propriety of the preamble as it originally stood, or of the amendments that had been made in it, the different states of slavery as they existed at different periods of the world should duly be considered. Certain conditions of slavery existed in the antediluvian world full 700 years before Noah; and such must have existed both before and after the formation of civil society. Under the circumstances of those times, multitudes must have existed, who could derive sustenance only from their labour, and who, in order to secure the means of support, were willing to surrender up that labour, and with it their freedom. Such a state of slavery might not indeed be considered as contrary to justice and humanity, because it was a voluntary act on the part of those who submitted to it; but, although that state of slavery might not be judged inconsistent with justice and humanity, it did not follow that other descriptions of it might not be highly inhuman and unjust; for what could be more contrary to justice and humanity, than to excite civil war in a country, and then take advantage of the calamities arising from it to force away the miserable inhabitants into an hopeless captivity? Such he conceived to be the nature of the trade which it was proposed to abolish. Its abolition was an act of national humanity and justice; it was an act that would never be blotted out in the records of divine mercy. He was ready to confess, that the most keenly exploring eye might not be able to dive into the consequences of such a measure; but as it evidently sprang from the root of undissembled piety and humanity, it should not be supposed to be productive of evil; but, on the contrary, that it must be healing and beneficial to mankind.

The Earl of Westmoreland could not let slip this last opportunity of entering his protest against the bill; he must therefore repeat some of his former objections to it, though he was aware that the repetition must be in some degree irksome to the house. At least he must remind them that one more occasion presented itself to allow them to rectify their opinions, which they should be the more induced to do from the awful warning contained in the petition which he had that day laid on their lordship's table. From that petition they might collect the dreadful consequences which even the resolutions of last year were producing in Jamaica. Every thing there seemed to indicate the approach of an organized insurrection, which might receive a new stimulus and encouragement from the bill now on the eve of passing. It, therefore, called again for the most serious consideration of their lordships, and that consideration would shew them that the proposed clauses involved the greatest inconsistencies, absurdities, and even impossibilities. As to the preamble, nothing could reconcile him to it. No good could be expected from it, while it might be attended with much mischief: he was, therefore, for leaving it out altogether. As to the consequences of the measure, they certainly appeared to him most alarming. If ever St. Domingo and Cuba were in the hands of our enemies, and if they resolved to carry on this trade, that alarm would prove but too well founded. He would even venture to say, that it was to the existence of the slave trade that their lordships were indebted for their being now sitting in that house. Our existence depended upon the strength of our navy, and the strength of our navy was chiefly derived from the slave trade. Their lordships must be convinced of it, if they but reflected that the town of Liverpool alone now sent out a greater number of privateers than were employed by the whole of the country against the enemy, in the time of Queen Elizabeth.

The Marquis of Sligo disapproved of the clauses, and contended, that the preamble contained a gross calumny.

The Duke of Norfolk was not very anxious on former occasions to support the measures of the abolition; because he knew that many of those who were loudest in its praise, were far from being sincere in their wishes for its success. Now, however, when it was taken up by ministers who had his confidence, and, who, he was satisfied, were incapable of any duplicity, the bill should have his most cordial support, and he should rejoice to see it pass. — The question was now

put on the several amendments, and agreed to. — Lord Grenville then moved, that the bill, with the amendments, etc., as agreed to, be sent to the commons, and on the motion being agreed to, — his lordship again rose, and congratulated the house on having now performed one of the most glorious acts that had ever been done by any assembly of any nation in the world.

(*Parliamentary Debates*, ed. Cobbett, Lond., 1807. IX, 168.)

CHAPTER XXXI

PARLIAMENTARY REFORM

218. Speech on the First Reform Bill

(1831)

Russell

The speech of Lord John Russell, when on March 1, 1831, he introduced the First Reform Bill, opened a debate which practically lasted until June 5, 1832. The Whig ministry knew that the fate of their party depended upon that of the Bill, and they came to realize that the fate of the dynasty itself might depend upon the same thing. The Opposition were no less desirous of victory, seeing in the Bill a measure which threatened the prosperity of the people and the very existence of the State. "The country was divided into two hostile camps, regarding each other with feelings of increased exasperation. On the one hand, the anti-reformers, though comparatively few, were immensely strong in position and prestige... On the other hand, the reformers could count upon the support of the great mass of the people."

The object of ministers has been to produce a measure with which every reasonable man in the country will be satisfied — we wish to take our stand between the two hostile parties, neither agreeing with the bigotry of those who would reject all Reform, nor with the fanaticism of those who contend that only one plan of Reform would be wholesome or satisfactory, but placing ourselves between both, and between the abuses we intend to amend and the convulsion we hope to avert.

The ancient constitution of our country declares that no man should be taxed for the support of the state, who has not consented, by himself or his representative, to the imposition of these taxes. The well-known statute, *de tallagio non concedendo*, repeats the same language; and, although some historical doubts have been thrown upon it, its legal meaning has never been disputed. It included "all the free-men of the land," and provided that each county should send to the Commons of the realm, two knights, each city two

burgesses, and each borough two members. Thus about a hundred places sent representatives, and some thirty or forty others occasionally enjoyed the privilege, but it was discontinued or revived as they rose or fell in the scale of wealth and importance. Thus, no doubt, at that early period, the House of Commons did represent the people of England; there is no doubt likewise, that the House of Commons, as it now subsists, does not represent the people of England. Therefore, if we look at the question of right, the reformers have right in their favour. Then, if we consider what is reasonable, we shall arrive at a similar result.

A stranger, who was told that this country is unparalleled in wealth and industry, and more civilized, and more enlightened than any country was before it; that it is a country that prides itself on its freedom, and that once in every seven years it elects representatives from its population, to act as the guardians and preservers of that freedom,—would be anxious and curious to see how that representation is formed, and how the people chose those representatives, to whose faith and guardianship they entrust their free and liberal institutions. Such a person would be very much astonished if he were taken to a ruined mound, and told that that mound sent two representatives to Parliament—if he were taken to a stone wall, and told that three niches in it sent two representatives to Parliament—if he were taken to a park, where no houses were to be seen, and told that that park sent two representatives to Parliament; but if he were told all this, and were astonished at hearing it, he would be still more astonished if he were to see large and opulent towns full of enterprise, and industry, and intelligence, containing vast magazines of every species of manufactures, and were then told that these towns sent no representatives to Parliament. Such a person would be still more astonished, if he were taken to Liverpool, where there is a large constituency, and told, here you will have a fine specimen of a popular election. He would see bribery employed to the greatest extent, and in the most unblushing manner; he would see every voter receiving a number of guineas in a box, as the price of his corruption; and after such a spectacle, he would no doubt be much astonished that a nation whose representatives are thus chosen, could perform the functions of legislation at all, or enjoy respect in any degree. I say then, that if the question before the House is a question of reason, the present state of representation is against reason.

The confidence of the country in the construction and constitution of the House of Commons is gone. It would be easier to transfer the flourishing manufactures of Leeds and Manchester to Gatton and Old Sarum, than re-establish confidence and sympathy between this House and those whom it calls its constituents. If, therefore, the question is one of right, right is in favour of Reform; if it be a question of reason, reason is in favour of Reform; if it be a question of policy and expediency, policy and expediency are in favour of Reform.

I come now to the explanation of the measure which, representing the ministers of the king, I am about to propose to the House. Those ministers have thought, and in my opinion justly thought, that no half measures would be sufficient; that no trifling or paltering with Reform could give stability to the Crown, strength to Parliament, or satisfaction to the country. The chief grievances of which the people complain are these. First, the nomination of members by individuals; second, the election by close corporations; third, the expense of elections. With regard to the first, it may be exercised in two ways, either over a place containing scarcely any inhabitants, and with a very extensive right of election; or over a place of wide extent and numerous population, but where the franchise is confined to very few persons. Gatton is an example of the first, and Bath of the second. At Gatton, where the right of voting is by scot and lot, all householders have a vote, but there are only five persons to exercise the right. At Bath the inhabitants are numerous, but very few of them have any concern in the election. In the former case, we propose to deprive the borough of the franchise altogether. In doing so, we have taken for our guide the population returns of 1821; and we propose that every borough which in that year had less than 2,000 inhabitants, should altogether lose the right of sending members to Parliament, the effect of which will be to disfranchise sixty-two boroughs. But we do not stop here. As the honourable member for Boroughbridge [Sir C. Wetherell] would say, we go *plus ultra*; we find that there are forty-seven boroughs of only 4,000 inhabitants, and these we shall deprive of the right of sending more than one member to Parliament. We likewise intend that Weymouth, which at present sends four members to Parliament, should in the future send only two. The total reduction thus effected in the number of the members of this House will be 168. This is the whole ex-

tent to which we are prepared to go in the way of disfranchisement.

We do not, however, mean to allow that the remaining boroughs should be in the hands of a small number of persons to the exclusion of the great body of the inhabitants who have property and interest in the place. It is a point of great difficulty to decide to whom the franchise should be extended. Though it is a point much disputed, I believe it will be found that in ancient times every inhabitant householder resident in a borough was competent to vote for members of Parliament. As, however, this arrangement excluded villeins and strangers, the franchise always belonged to a particular body in every town; — that the voters were persons of property is obvious, from the fact that they are called upon to pay subsidies and taxes. Two different courses seem to prevail in different places. In some, every person having a house, and being free, was admitted to a general participation in the privileges formerly possessed by burgesses: in others, the burgesses became a select body, and were converted into a kind of corporation, more or less exclusive. These differences, the House will be aware, lead to the most difficult, and at the same time the most useless questions that men can be called upon to decide. I contend that it is proper to get rid of these complicated rights, of these vexatious questions, and to give the real property and real respectability of the different cities and towns, the right of voting for members of Parliament. Finding that a qualification of a house rated at £20 a year, would confine the elective franchise, instead of enlarging it, we propose that the right of voting should be given to the householders paying rates for houses of the yearly value of £10 and upwards, upon certain conditions hereafter to be stated. At the same time it is not intended to deprive the present electors of their privilege of voting, provided they are resident. With regard to non-residence, we are of opinion that it produces much expense, is the cause of a great deal of bribery, and occasions such manifest and manifold evils, that electors who do not live in a place ought not be permitted to retain their votes. With regard to resident voters, we propose that they should retain their right during life, but that no vote should be allowed hereafter, except to £10 householders.

I shall now proceed to the manner in which we propose to extend the franchise in counties. The bill I wish to introduce will give all copyholders to the value of £10 a year,

qualified to serve on juries, under the right hon. gentlemen's [Sir R. Peel] bill, a right to vote for the return of knights of the shire; also, that leaseholders, for not less than twenty-one years, whose annual rent is not less than £50, and whose leases have not been renewed within two years, shall enjoy the same privilege.

(*History of the Reform Bill*, Molesworth, Lond., 1866, 103.)

219. The Prorogation of the Anti-Reform Parliament

(1831)

Molesworth

The First Reform Bill had passed two readings when the ministry, concluded after an adverse vote upon a motion, introduced by General Gascoyne, in opposition to their policy, that it was useless to continue the struggle in Parliament. Confident of the support of the electors, they resolved to appeal to the country. To do this a dissolution of Parliament was necessary, and against this the anti-reformers were firmly arrayed. The ministry appealed to the king. In the selection which follows, this appeal is vividly described, and the action of the king in dissolving Parliament is clearly portrayed.

Under these circumstances, ministers acted with promptitude and decision. Their defeat had occurred on the morning of the 22nd of April; on the same day summonses were issued, calling a Cabinet council at St. James's Palace. So short was the notice, that the ministers were unable to attend, as was customary on such occasions, in their court dresses. At this council it was unanimously resolved that the Parliament should be prorogued the same day, with a view to its speedy dissolution, and the royal speech, which had been prepared for the occasion, was considered and adopted. All necessary arrangements having been made, in order to take away from the king all pretext for delay, Earl Grey and Lord Brougham were deputed to wait on the king, and communicate to him the advice of the Cabinet. From what has been already said, the reader will be prepared to anticipate that this advice was far from palatable. The unusual haste with which it was proposed to carry out that measure, naturally increased the king's known objections to the proposed step, and furnished him with a good excuse for refusing his assent to it. Earl Grey, the pink and pattern of loyalty and chivalrous courtesy, shrunk from the disagreeable errand, and requested his bolder and less courtly colleague to introduce the subject, begging him at the same time to manage the susceptibility of the king as much as possible.

The Chancellor accordingly approached the subject very carefully, prefacing the disagreeable message with which he

was charged, with a compliment on the king's desire to promote the welfare of his people. He then proceeded to communicate the advice of the Cabinet, adding, that they were unanimous in offering it.

"What!" exclaimed the king, "would you have me dismiss in this summary manner a Parliament which has granted me so splendid a civil list, and given my queen so liberal an annuity in case she survives me?"

"No doubt, sire," Lord Brougham replied, "in these respects they have acted wisely and honourably, but your Majesty's advisers are all of opinion, that in the present state of affairs, every hour that this Parliament continues to sit is pregnant with danger to the peace and security of your kingdom, and they humbly beseech your Majesty to go down this very day and prorogue it. If you do not, they cannot be answerable for the consequences."

The king was greatly embarrassed; he evidently entertained the strongest objection to the proposed measure, but he also felt the danger which would result from the resignation of his ministers at the present crisis. He therefore shifted his ground, and asked — "Who is to carry the sword of state and the cap of maintenance?"

"Sire, knowing the urgency of the crisis and the imminent peril in which the country at this moment stands, we have ventured to tell those whose duty it is to perform these and other similar offices, to hold themselves in readiness."

"But the troops, the life guards, I have given no orders for them to be called out, and now it is too late."

This was indeed a serious objection, for to call out the guards was the special prerogative of the monarch himself, and no minister had any right to order their attendance without his express command.

"Sire," replied the Chancellor, with some hesitation, "we must throw ourselves on your indulgence. Deeply feeling the gravity of the crisis, and knowing your love for your people, we have taken a liberty which nothing but the most imperious necessity could warrant; we have ordered out the troops, and we humbly throw ourselves on your Majesty's indulgence."

The king's eye flashed and his cheek became crimson. He was evidently on the point of dismissing the ministry in an explosion of anger. "Why, my lords," he exclaimed, "this is treason! *high* treason, and you, my Lord Chancellor, ought to know that it is,"

"Yes, sire, I do know it, and nothing but the strongest conviction that your Majesty's crown and the interests of the nation are at stake, could have induced us to take such a step, or to tender the advice we are now giving."

This submissive reply had the desired effect, the king cooled, his prudence and better genius prevailed, and having once made up his mind to yield, he yielded with a good grace. He accepted, without any objection, the speech which had been prepared for him, and which the two ministers had brought with them, he gave orders respecting the details of the approaching ceremonial, and having completely recovered his habitual serenity and good humour, he dismissed the two lords with a jocose threat of impeachment.

At half-past two o'clock the king entered his state carriage. It was remarked that the guards on this occasion rode wide of it, as if they attended as a matter of state and ceremony, and not as being needed for the king's protection. Persons wishing to make a more open demonstration of their feelings, were allowed to pass between the soldiers and approach the royal carriage. One of these, a rough sailorlike person, pulled off his hat, and waving it around his head, shouted lustily, "Turn out the rogues, your Majesty." Notwithstanding the suddenness with which the resolution to dissolve had been taken, the news had already spread through the metropolis, an immense crowd was assembled, and the king was greeted throughout his whole progress with the most enthusiastic shouts. He was exceedingly fond of popularity, and these acclamations helped to reconcile him to the step he had been compelled to take, and to efface the unpleasant impression which the scene which had so recently occurred could not fail to leave behind it.

Meanwhile, another scene of a far more violent kind was taking place in the House of Lords. The Chancellor on leaving the king went down to the House to hear appeals. Having gone through the cause list he retired, in the hope that he should thereby prevent Lord Wharncliffe from bringing forward his motion. But the opposition lords had mustered in great force, and the House was full in all parts. It is usual on the occasion of a prorogation by the sovereign, for the peers to appear in their robes, and most of those present wore theirs, but owing to the precipitation with which the dissolution had been decided on, several peers, especially on the opposition side of the House, were without

them. A large number of peeresses in full dress, and of members of the House of Commons were also present. And now a struggle commenced between the two parties into which the House was divided. The object of the opposition was to press Lord Wharnccliffe's motion before the king's arrival; the supporters of the ministry wished to prevent it from being passed. The firing of the park guns announced that the king was already on his way down to the House, and told the opposition they had no time to lose. On the motion of Lord Mansfield, the Earl of Shaftesbury presided, in the absence of the Lord Chancellor.

The Duke of Richmond, in order to baffle the opposition, moved that the standing order which required their lordships to take their places should be enforced. The opposition saw at once that this motion was made for the sake of delay, and angrily protested against it; whereupon the duke threatened to call for the enforcement of two other standing orders which prohibited the use of intemperate and threatening language in the house. Lord Londonderry, furious with indignation, broke out into a vehement tirade against the conduct of the ministry, and thus effectually played the game of his opponents. So violent was the excitement which prevailed at this time in the House, that the ladies present were terrified, thinking that the peers would actually come to blows. At length Lord Londonderry was persuaded to sit down, and Lord Wharnccliffe obtained a hearing. But it was too late to press his motion, and he contented himself with reading it, in order that it might be entered on the journals of the House.

At this juncture, the Lord Chancellor returned, and the moment the reading of the address was concluded, he exclaimed in a vehement and emphatic tone —

"My lords, I have never yet heard it doubted that the king possessed the prerogative of dissolving Parliament at pleasure, still less have I ever known a doubt to exist on the subject at a moment when the lower House have thought fit to refuse the supplies." Scarcely had he uttered these words when he was summoned to meet the king, who had just arrived and was in the robing room; he at once quitted the House, which resounded on all sides with cries of "hear" and "the king."

This tumult having in some degree subsided, Lord Mansfield addressed the house, regretting the scene which had just occurred, and condemning the dissolution, which he

qualified as an act by which the ministers were making the sovereign the instrument of his own destruction.

He was interrupted by another storm of violence and confusion, which was at length appeased by the announcement that the king was at hand. When he entered, the assembly had recovered its usual calm and decorous tranquillity. The members of the House of Commons having been summoned to the bar, the king, in a loud and firm voice, pronounced his speech, which commenced with the following words: —

“My lords and gentlemen,

“I have come to meet you for the purpose of proroguing this Parliament, with a view to its immediate dissolution.

“I have been induced to resort to this measure for the purpose of ascertaining the sense of my people, in the way in which it can be most constitutionally and authentically expressed, on the expediency of making such changes in the representation as circumstances may appear to require, and which, founded on the acknowledged principles of the constitution, may tend at once to uphold the just rights and prerogatives of the crown, and to give security to the liberties of the people.”

(*History of the Reform Bill*, ed. cit., 185.)

220. Passage of the First Reform Bill

Macaulay

The scenes which accompanied the passage of the first Reform Bill are graphically described in the following letter from Lord Macaulay. The writer was himself an ardent supporter of the Bill, and he thoroughly entered into the spirit of its triumph.

PASSAGE OF THE FIRST REFORM BILL

London, March 30th, 1831.

Dear Ellis, — I have little news for you, except what you will learn from the papers as well as from me. It is clear that the Reform Bill must pass, either in this or in another Parliament. The majority of one does not appear to me, as it does to you, by any means inauspicious. We should perhaps have had a better plea for a dissolution if the majority had been the other way. But surely a dissolution under such circumstances would have been a most alarming thing. If there should be a dissolution now, there will not be that ferocity in the public mind which there would have been if the House of Commons had refused to entertain the bill at

all. I confess that, till we had a majority, I was half inclined to tremble at the storm which he had raised. At present I think that we are absolutely certain of victory, and of victory without commotion.

Such a scene as the division of last Tuesday I never saw, and never expect to see again. If I should live fifty years, the impression of it will be as fresh and sharp in my mind as if it had just taken place. It was like seeing Caesar stabbed in the Senate-house, or seeing Oliver taking the mace from the table; a sight to be seen only once, and never to be forgotten. The crowd overflowed the House in every part. When the strangers were cleared out, and the doors locked, we had six hundred and eight members present — more by fifty-five than ever were in a division before. The ayes and noes were like two volleys of cannon from opposite sides of a field of battle. When the opposition went out into the lobby, an operation which took up twenty minutes or more, we spread ourselves over the benches on both sides of the House; for there were many of us who had not been able to find a seat during the evening. When the doors were shut we began to speculate on our members. Everybody was desponding. "We have lost it. We are only two hundred and eighty at most. I do not think we are two hundred and fifty. They are three hundred. Alderman Thompson has counted them. He says they are two hundred and ninety-nine." This was the talk on our benches. I wonder that men who have been long in Parliament do not acquire a better coup d'oeil for numbers. The House, when only the ayes were in it, looked to me a very fair House — much fuller than it generally is even on debates of considerable interest. I had no hope, however, of three hundred. As the tellers passed along our lowest row on the left-hand side the interest was insupportable — two hundred and ninety-one — two hundred and ninety-two — we were all standing up and stretching forward, telling with the tellers. At three hundred there was a short cry of joy — at three hundred and two another — suppressed, however, in a moment; for we did not yet know what the hostile force might be. We knew, however, that we could not be severely beaten. The doors were thrown open and in they came. Each of them, as he entered, brought some different report of their numbers. It must have been impossible, as you may conceive, in the lobby, crowded as they were, to form any exact estimate. First we heard that they were three hundred and three; then that

number rose to three hundred and ten; then they went down to three hundred and seven. Alexander Barry told me that he had counted, and that they were three hundred and four. We were all breathless with anxiety, when Charles Wood, who stood near the door, jumped upon a bench and cried out, "They are only three hundred and one." We set up a shout that you might have heard to Charing Cross, waving our hats, stamping against the floor, and clapping our hands. The tellers scarcely got through the crowd; for the House was thronged up to the table, and all the floor was fluctuating with heads like the pit of a theatre. But you might have heard a pin drop as Duncannon read the members. Then again the shouts broke out, and many of us shed tears. I could scarcely refrain. And the jaw of Peel fell; and the face of Twiss was as the face of a damned soul; and Herries looked like Judas taking his neck-tie off for the last operation. We shook hands and clapped each other on the back, and went out laughing, crying, and huzzaing into the lobby. And no sooner were the outer doors opened than another shout answered that within the House. All the passages and the stairs into the waiting-rooms were thronged by people who had waited till four in the morning to know the issue. We passed through a narrow lane between two thick masses of them; and all the way down they were shouting and waving their hats, till we got into the open air. I called a cabriolet, and the first thing the driver asked was, "Is the bill carried?" "Yes, by one." "Thank God for it, sir!" And away I rode to Gray's Inn — and so ended a scene which will probably never be equalled till the reformed Parliament wants reforming; and that I hope will not be till the days of our grandchildren — till that truly orthodox and apostolical person, Dr. Francis Ellis, is an archbishop of eighty.

(Life and Letters of Lord Macaulay, ed. Trevelyan, Lond., 1897, I, 201.)

CHAPTER XXXII

CHARTISM, AND CORN-LAW REPEAL

221. The First National Petition

Gammage

The first petition drawn up in 1838 by the Chartists, although not that subsequently presented to the House of Commons, well defines the motives and purposes of the movement. One of the six points demanded — that of equal representation — was omitted; perhaps because it was deemed a corollary of universal suffrage. This petition was the first definition of the spirit of the movement, and formed a basis for the petitions which were afterward drafted and presented.

“To the Honourable the Commons of Great Britain and Ireland, in Parliament assembled, the Petition of the undersigned, their suffering countrymen,

“HUMBLY SHOWETH, —

“That we, your petitioners, dwell in a land whose merchants are noted for their enterprise, whose manufacturers are very skilful, and whose workmen are proverbial for their industry. The land itself is goodly, the soil rich, and the temperature wholesome. It is abundantly furnished with the materials of commerce and trade. It has numerous and convenient harbours. In facility of internal communication it exceeds all others. For three and twenty years we have enjoyed a profound peace. Yet, with all the elements of national prosperity, and with every disposition and capacity to take advantage of them, we find ourselves overwhelmed with public and private suffering. We are bowed down under a load of taxes, which, notwithstanding, fall greatly short of the wants of our rulers. Our traders are trembling on the verge of bankruptcy; our workmen are starving. Capital brings no profit, and labour no remuneration. The home of the artificer is desolate, and the warehouse of the pawnbroker is full. The workhouse is crowded, and the manufactory is deserted.

We have looked on every side; we have searched diligently in order to find out the causes of distress so sore and so long continued. We can discover none in nature or in Providence. Heaven has dealt graciously by the people, nor have the people abused its grace, but the foolishness of our rulers has made the goodness of our God of none effect. The energies of a mighty kingdom have been wasted in building up the power of selfish and ignorant men, and its resources squandered for their aggrandisement. The good of a part has been advanced at the sacrifice of the good of the nation. The few have governed for the interest of the few, while the interests of the many have been sottishly neglected, or insolently and tyrannously trampled upon. It was the fond expectation of the friends of the people that a remedy for the greater part, if not for the whole of their grievances, would be found in the Reform Act of 1832. They regarded that Act as a wise means to a worthy end, as the machinery of an improved legislation, where the will of the masses would be at length potential. They have been bitterly and basely deceived. The fruit which looked so fair to the eye, has turned to dust and ashes when gathered. The Reform Act has effected a transfer of power from one domineering faction to another, and left the people as helpless as before. Our slavery has been exchanged for an apprenticeship to liberty, which has aggravated the painful feelings of our social degradation, by adding to them the sickening of still deferred hope. We come before your honourable house to tell you, with all humility, that this state of things must not be permitted to continue. That it cannot long continue, without very seriously endangering the stability of the throne, and the peace of the kingdom, and that if, by God's help, and all lawful and constitutional appliances, an end can be put to it, we are fully resolved that it shall speedily come to an end. We tell your honourable house, that the capital of the master must no longer be deprived of its due profit; that the labour of the workman must no longer be deprived of its due reward. That the laws which make food dear, and the laws which make money scarce, must be abolished. That taxation must be made to fall on property, not on industry. That the good of the many, as it is the only legitimate end, so must it be the sole study of the government. As a preliminary essential to these and other requisite changes—as the means by which alone the interests of the people can be effectually vindicated and secured, we demand that those interests be

confided to the keeping of the people. When the State calls for defenders, when it calls for money, no consideration of poverty or ignorance can be pleaded in refusal or delay of the call. Required, as we are universally, to support and obey the laws, nature and reason entitle us to demand that in the making of the laws the universal voice shall be implicitly listened to. We perform the duties of freemen; we must have the privileges of freemen. Therefore, we demand universal suffrage. The suffrage, to be exempt from the corruption of the wealthy and the violence of the powerful, must be secret. The assertion of our right necessarily involves the power of our uncontrolled exercise. We ask for the reality of a good, not for its semblance, therefore we demand the ballot. The connection between the Representatives and the people, to be beneficial, must be intimate. The legislative and constituent powers, for correction and for instruction, ought to be brought into frequent contact. Errors which are comparatively light, when susceptible of a speedy popular remedy, may produce the most disastrous effects when permitted to grow inveterate through years of compulsory endurance. To public safety, as well as public confidence, frequent elections are essential. Therefore, we demand annual parliaments. With power to choose, and freedom in choosing, the range of our choice must be unrestricted. We are compelled, by the existing laws, to take for our representatives men who are incapable of appreciating our difficulties, or have little sympathy with them; merchants who have retired from trade and no longer feel its harassings; proprietors of land who are alike ignorant of its evils and its cure; lawyers by whom the notoriety of the senate is courted only as a means of obtaining notice in the courts. The labours of a representative who is sedulous in the discharge of his duty are numerous and burdensome. It is neither just, nor reasonable, nor safe, that they should continue to be gratuitously rendered. We demand that in the future election of members of your honourable house, the approbation of the constituency shall be the sole qualification, and that to every representative so chosen, shall be assigned out of the public taxes, a fair and adequate remuneration for the time which he is called upon to devote to the public service. The management of this mighty kingdom has hitherto been a subject for contending factions to try their selfish experiments upon. We have felt the consequences in our sorrowful experience. Short glimmerings

of uncertain enjoyment, swallowed up by long and dark seasons of suffering. If the self-government of the people should not remove their distresses, it will, at least, remove their repinings. Universal suffrage will, and it only can, bring true and lasting peace to the nation; we firmly believe that it will also bring prosperity. May it therefore please your honourable house, to take this our petition into your most serious consideration, and to use your utmost endeavours, by all constitutional means, to have a law passed, granting to every male of lawful age, sane mind, and unconvicted of crime, the right of voting for members of parliament to and directing all future elections of members of Parliament to be in the way of secret ballot, and ordaining that the duration of Parliament, so chosen, shall in no case exceed one year, and abolishing all property qualifications in the members, and providing for their due remuneration while in attendance on their parliamentary duties.

“And your petitioners shall ever pray.”

(*History of the Chartist Movement*, R. G. Gammage, London, 1894. p. 87.)

222. Presentation of the National Petition

Gammage

The climax of the Chartist movement occurred upon April 10th, 1848 the date of the presentation of the “monster petition.” The apprehension of the Government, the attitude of Parliament, and the motives and actions of the leaders of the Chartists are well shown by the following selection from the works of a prominent agitator.

The ever memorable 10th of April arrived, and vast preparations were made by the Government. Beside the regular troops quartered in the metropolis, others poured in from Windsor, Hounslow, Chichester, Chatham, Winchester, and Dover. The marines and sailors of the Royal Navy at Sheerness, Chatham, Birkenhead, Spithead, and other government towns, as well as the dockyard men, were kept under arms. The Thames police kept watch upon the mercantile marine, lest they should show any leaning towards the Chartists. Heavy gun-batteries were brought from Woolwich, and placed at various points. The marines were stationed at the Admiralty. Many of the troops were disposed of secretly, to be ready in case of necessity. The mounted police were armed with broad swords and pistols. All the public buildings were put in a state of defence. Two thousand stand-of-arms were supplied to the general post-office, for the use of the clerks and officers of that department, who were all sworn in as special constables; and the

officials at other public places were equally well provided. All the steam vessels were ordered to be ready for any emergency, in order to convey troops. At the Tower the guns were examined, the battlements strengthened by barricades, and the troops held in readiness to march at a minute's notice. The labourers at the docks were sworn in as specials. The city prisons were guarded by military, and the churches were converted into barracks. The public vehicles were generally withdrawn from the streets. In the city seventy thousand persons were sworn in as special constables, and military officers commanded them. The royal carriages and horses, and other valuables, were removed from the palace. The military force amounted to nine thousand men. It being believed that the procession would go from Kennington Common over Blackfriars Bridge, to the House of Commons, great preparations were made in that quarter. At Stepney Green, Finsbury-square, and Russell-square, bodies of the Chartists met with bands and banners, and paraded the streets on their way to Kennington Common, where six thousand police, and eight thousand specials were in attendance. Before eleven o'clock Trafalgar-square was filled with police. The approaches of Westminster Bridge were, on the Surrey side, guarded by strong bodies of that force, and the bridge was placarded with bills, announcing that no procession would be allowed to accompany the Petition to the House. Every commodious place in the vicinity was filled with military, police, or specials. The artillery was also present. Various bodies continued to arrive on the Common with music and banners, bearing various inscriptions, such as "Liberty, Equality, Fraternity"; "Ireland for the Irish." The Convention assembled at nine o'clock, Reynolds occupying the chair. The delegates' names were called. When the name of Bronterre O'Brien was called, McCarthy said he understood O'Brien had resigned, and he wished to know when he attended last. Doyle said they had no notice of his resignation officially, and he had not attended since the day before the proclamation was issued from the Government. Doyle also announced that he had received a letter from the Commissioner of Police, in reply to one sent by him that the route of procession was altered. The letter stated that the contemplated procession would on no account be allowed to take place. O'Connor delivered a precautionary speech; took the blame off the Government for the preparations they had made, and charged it upon those who had talked of an

armed demonstration. He said he was prepared to ask the meeting "in the name of courage, in the name of justice, in the name of God, not to hold the procession, and thus throw their great cause into the hands of the pickpockets and scoundrels, and give the Government an opportunity of attacking them." He then stated that the preparations had been made for shooting from certain windows on the leaders of the movement. He was told this by Alderman Humphery in the House of Commons, by the police, and others. The delegates started from the Convention Room at ten o'clock. The procession was headed by a car, decorated with various banners, and drawn by four horses. This car was to convey the National Petition. This was followed by a second car, drawn by six horses, and containing the delegates. On the front seat were Feargus O'Connor, Doyle, McGrath, Jones, Wheeler, and Harney. This car, like the preceding one, was profusely decorated. As the delegates left a body of people fell into procession behind them, eight abreast. Having arrived at the National Land Company's office, the procession stopped to take up the petition. This accomplished, the procession resumed its march through Holborn, Farringdon-street, and New Bridge-street, to Blackfriar's Bridge. Two or three hundred pensioners were on the Steamboat Pier, who, on being recognised, were loudly cheered by the people in the procession. Quite as many police were on the other side of the Bridge, and a little further on were fifty mounted police with cutlasses. As far as the Blackfriar's-road most of the shops were open, but from the Bridge they were mostly closed. The procession at length reached the Common, where the several bodies of men, with their bands and banners, formed into a dense mass, estimated at from one hundred and fifty thousand to one hundred and seventy thousand, and who burst into loud cheering as the delegates' car came upon the Common. . . .

. . . The meeting being at an end, the Petition was placed in three cabs, and the Chartist Executive accompanied it to the House of Commons. The police guarded the bridges, and for upwards of an hour after the meeting, prevented any approach on the part of the people. Some endeavoured to effect a passage, but the police used their staves, often with very little moderation. The masses did not, however, risk a collision with the police, and considering the excitement previously existing, the day passed off in a singularly peaceful manner.

On the same day O'Connor presented the Petition to the House, which he stated was signed by five million seven hundred thousand persons. He also presented one for the same object, signed by thirty thousand persons. He moved that the first Petition be read by the clerk at the table, which was accordingly done. Lord Morpeth stated that Sir George Grey was unavoidably absent on account of business; but he might say for him, that whatever might be his sentiments on the prayer of the Petition, he would not wish to appear wanting in respect to that or any other petition, signed by a large number of his fellow-subjects. The Petition being rolled out of the House, Bright presented a petition from delegates at Manchester, representing six thousand persons, praying for the six points of the Charter; the abolition of the law of entail and primogeniture; a limitation of the hours of labour; and local boards for the regulation of wages. Lushington gave notice that on Friday next he would ask whether it was the intention of the Government to introduce any measure of parliamentary reform during the session. . . .

On the same day that the last three motions were adopted, an important scene occurred in the House of Commons on the subject of the National Petition. Thornley brought up a report from the Committee on public petitions. He stated that with the assistance of thirteen law stationer's clerks, the petition which O'Connor had said contained five million seven hundred thousand signatures, had been examined, and it was found to contain only one million nine hundred and seventy-five thousand four hundred and ninety-six, and amongst the rest were signatures such as Victoria Rex, the Duke of Wellington, Sir Robert Peel, Colonel Sibthorpe, etc. There were also a large number of fictitious names, such as Pugnose, Longnose, Flatnose, Punch, Snooks, Fubbs, and other obscene names, which he would not offend the House or its dignity by repeating. O'Connor denied that it would be possible for thirteen clerks to count one million nine hundred thousand signatures in the time, and moved for a committee to enquire into the subject. He attributed the fictitious names to Government spies. He believed the number of signatures he had stated was correct. He did not believe he should have any difficulty in obtaining fifteen million or double or treble that number. Thornley said the Committee was not appointed specially to examine that Petition, but it was appointed in the early part of the session, to examine all petitions presented to the House. O'Connor had stated that the

Petition was contained in four large bundles, and it took himself and four other persons to lift the largest. The Petition had been weighed that morning, and was found to weigh 5cwt. 48 lbs. The Committee was, he trusted, too well known to render any further statement necessary. Lord John Russell expressed himself satisfied with the report. The Earl of Arundel and Surrey, Maurice O'Connell, and Sir R. H. Inglis having spoken, Cripps, one of the Committee, got up and confirmed the statement of Thornley, and stated out of ten thousand signatures, eight thousand two hundred were women. He made some strong remarks upon O'Connor, who replied that he could not be answerable for every signature contained in the Petition. He had palmed no falsehood upon the House, nor had he charged the Committee with practising a deception. After he had spoken O'Connor left the House.

(*History of the Chartist Movement*, ed. cit., p. 312.)

223. Suffering of the "Lower Classes"

Contemporary Newspaper

The following letter to the *Sun* throws powerful light upon the sufferings of the English poor in the days of Chartism and Reform. The description of the poverty of the lower classes is as vivid as it is painful, and the prophecy with which the letter concludes shows the impression made by the conditions of the times upon men of thought.

Sir,—I have been at the siege of Bolton—for nothing but some such cause suggests itself as adequate to the phenomenon. And is it not a siege? Not carried on perhaps by any enemy within gun-shot, but by one working on a wider radius, and making his blockade by sea upon the means of life.

Many sights it has been my chance to see. I think I know what is the minimum of help by which horse, ass, dog, hog, or monkey, can sustain existence, and when it must go out for want of appliances and means of living. But anything like the squalid misery, the slow, mouldering, putrefying death, by which the weak and the feeble of the working classes are perishing here, it never befel my eyes to behold, nor my imagination to conceive. And the creatures seem to have no idea of resisting or even repining. They sit down with Oriental submission, as if it was God, and not the landlord, that was laying hand upon them. And when their honourable representative in Parliament gave a description

of their sufferings, "liar" was the best word applied to him by the organs of tyranny.

Did you ever set your eyes on a pennyworth of mutton? Come here, and you shall see how rations are served out under the landlord's state of siege. It might bait a rat-trap; though a well-fed rat would hardly risk his personalities for such a pittance. Pennyworths of mutton, and halfpennyworths of bread cut off the loaf, are what the shopkeepers of Bolton deal out to the inhabitants of their Jerusalem. I saw a woman come for one halfpenny-worth of bread, which was to be the dinner of herself and her children twain; and when I reflected that of this transparent slice the other one was gone to buy the landlord's sack, astonishment possessed me at the endurance of that long-bearing ass the public, and the extent to which ignorance and divisions will prop the rich man's robbery.

I saw another mother of a family, who said she had not tasted meat for many months; and on one of the children being sent off to the butcher's for some of the strange luxury, she was discovered making many efforts to intercept the messenger. Her anxiety was to instruct the boy to bring back nothing but one pennyworth of bacon; there was a to-morrow, and to-morrow, and to-morrow, for which she had conceived the idea of spinning out existence by means of the remainder of the funds.

If you are curious in human misery, if you are anxious to know what a shabby tyranny can bring the rank and file to suffer, come, at your leisure, to the "leaguer" of Bolton, and see what the people sleep upon, if they do sleep. Chopped dirt, the sweepings of a henhouse, mingled with a portion of sparrows' nests, to show that men had heard of straw, would be the best representatives of what they huddle upon in corners, and call it resting. And all this because Sir Having Greedy votes in the House of Commons for closing honest trade, as the means of doubling his rents. The minister, meanwhile, and his associates, are racking their tender hearts to find a remedy. As in O'Connell's celebrated story of the horse, "Will they try corn?" They will try anything except allow the sufferers to keep themselves, for that would interfere with the plans of those who, being rich already, use their riches as a means of doubling them by confiscation of the poor man's bread.

There is danger in their schemes. Already people of all kinds are parodying the sentiment of the Italians — "*Ad*

ogni uomo puzza questo barbaro dominio," which may be translated for English use, "Neither man nor woman will endure this dynasty of clodhoppers." It wants nothing but the privates of the regiment to know what hurts them, and to get rid (as they are doing fast) of the various false lights thrown out to induce them to run in every direction that will preserve the evil; and a quicker end than pleasant may be put to mischiefs, which nobody would remove by an earlier application of the prudential virtues.

(*Recollections of Richard Cobden and the Anti-Corn Law League*,
H. Ashworth, Lond. p. 36.)

224. Repeal of the Corn Law

Levi

The Anti-Corn-Law movement finally met with the success it merited, though not without encountering fierce opposition. The landed interest was inimical, almost as a unit. Legislation in the interest of the masses found little favour among the upper classes of England at that period, and the voice of the multitude, reduced to the borders of starvation, was long raised in vain. Sir Robert Peel's defection from the opponents of the Bill largely aided its ultimate passage, but to Cobham and Bright belong the greatest meed of praise for the final triumph of the cause of the people.

The Anti-Corn-Law agitation was one of those movements which, being founded on right principles, and in harmony with the interests of the masses, was sure to gather fresh strength by any event affecting the supply of food. It was popular to attempt to reverse a policy which aimed almost exclusively to benefit one class of society. . . . The economic theorists had the mass of the people with them. Their gatherings were becoming more and more enthusiastic. And even amidst Conservative landowners there were not a few enlightened and liberal minds who had already, silently at least, espoused the new ideas. No change certainly could be expected so long as bread was cheap and labour abundant. But when a deficient harvest and a blight in the potato crop crippled the resources of the people and raised grain to famine prices, the voice of the League acquired greater power and influence. Hitherto they had received hundreds of pounds. Now, thousands were sent in to support the agitation. A quarter of a million was readily contributed. Nor were the contributors Lancashire mill-owners exclusively. Among them were merchants and bankers, men of heart and men of mind, the poor labourer and the peer of

the realm. The fervid oratory of Bright, the demonstrative and argumentative reasoning of Cobden, the more popular appeals of Fox, Rawlins, and other platform speakers, filled the newspaper press, and were eagerly read. And when parliament dissolved in August 1845, even Sir Robert Peel showed some slight symptoms of a conviction that the days of the corn laws were numbered. Every day, in truth, brought home to his mind a stronger need for action, and as the ravages of the potato disease progressed, he saw that all further resistance would be absolutely dangerous. A cabinet council was held on October 31 to consult as to what was to be done, and at an adjourned meeting on November 5 Sir Robert Peel intimated his intention to issue an order in council remitting the duty on grain in bond to one shilling, and opening the ports for the admission of all species of grain at a smaller rate of duty until a day to be named in the order; to call parliament together on the 27th inst., to ask for an indemnity, and a sanction of the order by law; and to submit to parliament immediately after the recess a modification of the existing law, including the admission at a nominal duty of Indian corn and of British colonial corn. A serious difference of opinion, however, was found to exist in the cabinet on the question brought before them, the only ministers supporting such measures being the Earl of Aberdeen, Sir James Graham, and Mr. Sidney Herbert. Nor was it easy to induce the other members to listen to reason. And though at a subsequent meeting, held on November 28, Sir Robert Peel so far secured a majority, it was evident that the cabinet was too divided to justify him in bringing forward his measures, and he decided upon resigning office. This resolution having been communicated to the Queen, her Majesty summoned Lord John Russell to form a cabinet, and, to smooth his path, Sir Robert Peel, with characteristic frankness, sent a memorandum to her Majesty embodying a promise to give him his support. But Lord John Russell failed in his efforts, and the Queen had no alternative but to recall Sir Robert Peel, and give him full power to carry out his measures. It was under such circumstances that Parliament was called for January 22, 1846, and on January 27 the government plan was propounded before a crowded house. It was not a immediate repeal of the corn laws that Sir Robert Peel recommended. He proposed a temporary protection for three years, till February 1, 1849, imposing a

scale during that time ranging from 4s. when the price of wheat should be 50s. per quarter and upward, and 10s. when the price of wheat should be under 48s. per quarter, and that after that period all grain should be admitted at the uniform duty of 1s. per quarter. The measure, as might have been expected, was received in a very different manner by the political parties in both Houses of Parliament. There was treason in the conservative camp, and keen and bitter was the opposition they offered to their chief. For twelve nights speaker after speaker indulged in personal recriminations. They recalled to Sir Robert Peel's memory the speeches he had made in defence of the corn laws. And as to his assertion that he had changed his mind, they denied his right to do so.

... The passing of the measure was, however, more than certain, and after a debate of twelve nights' duration on Mr. Miles, amendment, the Government obtained a majority of 97, 337 having voted for the motion and 240 against it. And from that evening the corn law may be said to have expired.

(History of British Commerce, Lond. 1872, p. 292.)

CHAPTER XXXIII

AUSTRALIA

225. The Establishment of the Colony

(27 GEO. III. c. 2, 1787)

Barton

The following Act established the colony of New South Wales by extending thereto the criminal jurisdiction of the king. Transportation for certain offences had already been determined upon, and Australia presented many advantages as a penal settlement.

ACT TO ENABLE HIS MAJESTY TO ESTABLISH A CRIMINAL JUDICATURE ON THE EASTERN COAST OF NEW SOUTH WALES AND THE PARTS ADJACENT

Whereas by an Act made and passed in the twenty-fourth year of his present Majesty's reign, intituled — An Act for the effectual transportation of felons and other offenders, and to authorize the removal of prisoners in certain cases, and for other purposes therein mentioned, it is enacted that, from and after the passing of that Act, when any person or persons at any Sessions of Oyer or Terminer or Gaol Delivery, or at any Quarter or other General Session of the Peace to be holden for any county, riding, division, city, town, borough, liberty, or place, within that part of Great Britain called England, or at any Great Session to be holden for the County Palatine of Chester, or within the Principality of Wales, shall be lawfully convicted of grand or petit larceny, or any other offence for which such person or persons shall be liable by the laws of this realm to be transported, it shall and may be lawful for the Court before which any such person or persons shall be convicted as aforesaid, or any subsequent Court holden at any place for the same county, riding, division, city, town, borough, liberty, or place respectively, with like authority, to order and adjudge that such person or persons so convicted as aforesaid shall be trans-

ported beyond the seas for any term of years not exceeding the number of years or terms for which such person or persons is or are or shall be liable by any law to be transported; and in any such case it shall or may be lawful for his Majesty, by and with the advice of his Privy Council, to declare and appoint to what place or places, part or parts, beyond the seas, either within his Majesty's dominions, or elsewhere out of his Majesty's dominions, such felons or other offenders shall be conveyed or transported: And such Court as aforesaid is thereby authorized and empowered to order such offenders to be transferred to the use of any person or persons, and his or their assigns, who shall contract for the due performance of such transportation:

And when his Majesty, his heirs and successors, shall be pleased to extend mercy to any offender or offenders who hath or have been, or shall be convicted of any crime or crimes, for which he, she, or they is or shall be by law excluded from the benefit of clergy, upon condition of transportation to any place or places, part or parts, beyond the seas, either for term of life, or any number of years, and such extension of mercy shall be signified by one of his Majesty's Principal Secretaries of State, it shall be lawful for any Court, having proper authority, to allow such offender or offenders the benefit of a conditional pardon, and (except in cases where such offenders shall be authorized by his Majesty to transport himself, herself, or themselves) to order the transfer of such offender or offenders to any person or persons who shall contract for the due performance of such transportation, and his or their assigns, for such and the same term of years for which any such offender or offenders shall have been ordered to be transported, or for such term of life or years as shall be specified in such condition of transportation:

And whereas his Majesty, by two several Orders-in-Council, bearing date respectively on the sixth day of December, 1786, hath judged fit, by and with the advice of his Privy Council, to declare and appoint the place to which certain offenders named in two lists to the said several Orders-in-Council annexed, should be transported for the time or term in their several sentences mentioned, to be the eastern coast of New South Wales, or some one or other of the islands adjacent:

And whereas Sir James Eyre, Knight, and Sir Beaumont Hotham, Knight, two of the Barons of his Majesty's Court of

Exchequer of the degree of coiffe, according to the authority of them given by the said statute, did, on the thirtieth day of December, 1786, order that the said several offenders, in the said several lists to the said several Orders-in-Council annexed, should be transported to the place and for the time and terms aforesaid:

And whereas it may be found necessary that a colony and a civil Government should be established in the place to which such convicts shall be transported, under and by virtue of the said Act of Parliament, the said two several Orders-of-Council, and other the said above-recited Orders, and that a Court of Criminal Jurisdiction should also be established within such place as aforesaid, with authority to proceed in a more summary way than is used within this realm, according to the known and established laws thereof:

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, that his Majesty may, by his Commission under the Great Seal, authorize the person to be appointed Governor, or the Lieutenant-Governor in the absence of the Governor, at such place as aforesaid, to convene from time to time, as occasion may require, a Court of Judicature for the trial and punishment of all such outrages and misbehaviours as, if committed within this realm, would be deemed and taken, according to the laws of this realm, to be treason or misprison thereof, felony or misdemeanor, which Court shall consist of the Judge-Advocate, to be appointed in and for such a place, together with six officers of his Majesty's forces by sea or land:

Which Court shall proceed to try such offenders by calling such offenders respectively before that Court, and causing the charge against him, her, or them respectively, to be read over, which charge shall always be reduced into writing, and shall be exhibited to the said Court by the Judge-Advocate, and by examining witnesses upon oath, to be administered by such Court, as well for as against such offenders respectively, and afterwards adjudging by the opinion of the major part of the persons composing such Court, that the party accused is or is not (as the case shall appear to them) guilty of the charge, and by pronouncing judgment therein (as upon a conviction by verdict) of death, if the offence be capital, or of such corporal punishment not extending to capital punishment, as to the said Court shall seem meet; and in cases not

capital, by pronouncing punishment of such corporal punishment, not extending to life or limb, as to the said Court shall seem meet.

II. And be it further enacted that the Provost-Marshall, or other officer to be for that purpose appointed by such Governor or Lieutenant-Governor, shall cause due execution of such judgment to be had and made under and according to the warrant of such Governor or Lieutenant-Governor in the absence of the Governor, under his hand and seal, and not otherwise:

Provided always that execution shall not be had or done on any capital convict or convicts, unless five persons present in such Court shall concur in adjudging him, her, or them, so accused and tried as aforesaid, to be respectively guilty, and until the proceedings shall have been transmitted to his Majesty and by him approved.

III. And be it so enacted by the authority aforesaid that the said Court shall be a Court of Record, and shall have all such powers as by the laws of England are incident and belonging to a Court of Record.

(History of New South Wales from the Records, G. B. Barton, Lond. and Sidney, 1889. I, 453).

226. The First Penal Settlement

Barton

In 1786 there was drawn up the following plan for the establishment of a penal settlement in New South Wales. The document given is not the first submitted, but it is that which contains the plan nearest that which was adopted. The result was the famous "first fleet," which in 1788 sailed for Botany Bay. Although the experiment was not an unqualified success, it was sufficiently so to warrant the continuance of the penal settlements in Australia. All of these settlements were generically known as Botany Bay, although the spot to which that title belonged was soon abandoned. It was not for many years that Australia was able to free herself from the unjust reproach of being inhabited mainly by convicts.

HEADS OF A PLAN

For effectually disposing of convicts, and rendering their transportation reciprocally beneficial both to themselves and to the State, by the establishment of a colony in New South Wales, a country which, by the fertility and salubrity of the climate, connected with the remoteness of its situation (from whence it is hardly possible for persons to return without permission), seems peculiarly adapted to answer the views of Government with respect to the providing a remedy for the evils likely to result from the late alarming and numer-

ous increase of felons in this country, and more particularly in the metropolis.

It is proposed that a ship-of-war of a proper class, with a part of her guns mounted, and a sufficient number of men on board for her navigation, and a tender of about two hundred tons burthen, commanded by discreet officers, should be got ready as soon as possible to serve as an escort to the convict ships, and for other purposes hereinafter mentioned.

That, in addition to their crews, they should take on board two companies of marines, to form a military establishment on shore, not only for the protection of the settlement, if required, against the natives, but for the preservation of good order, together with an assortment of stores, and utensils and implements necessary for erecting habitations and for agriculture; and such quantities of provisions as may be proper for the use of the crews.

As many of the marines as possible should be artificers, such as carpenters, surveyors, smiths, potters, if possible, and some husbandmen. To have a chaplain on board, with a surgeon and one mate at least, the former to remain at the settlement.

That these vessels should touch at the Cape of Good Hope, or any other places that may be convenient, for any seed that may be requisite to be taken from thence, and for such live stock as they can possibly contain, which it is supposed can be procured there without any sort of difficulty, and at the most reasonable rates, for the use of the settlement at large.

That Government should immediately provide a certain number of ships of a proper burthen to receive on board at least seven or eight hundred convicts, and that one of them should be properly fitted for the accommodation of the women, to prevent their intercourse with the men.

That these ships should take on board as much provisions as they can possibly stow, or at least a sufficient quantity for two years' consumption, supposing one year's to be issued at whole allowance, and the other year's provisions at half-allowance, which will last two years longer; by which time it is presumed that the colony, with the live stock and grain which may be raised by a common industry on the part of the new settlers, will be fully sufficient for their maintenance and support.

That, in addition to the crews of the ships appointed to contain the convicts, a company of marines should be divided between them, to be employed as guards for preventing ill

consequences that might arise from dissatisfaction amongst the convicts, and for the protection of the crews in the navigation of the ships from insults that might be offered by the convicts.

That each of the ships should have on board at least two surgeons' mates to attend to the wants of the sick, and should be supplied with a proper assortment of medicine and instruments, and that two of them should remain with the settlement.

After the arrival of the ships which are intended to convey the convicts, the ship-of-war and tender may be employed in obtaining live stock from the Cape, or from the Molucca Islands, a sufficient quantity of which may be brought from either of those places to the new settlement, in two or three trips; or the tender, if it should be thought most advisable, may be employed in conveying to the new settlement a further number of women from the Friendly Islands, New Caledonia, etc., which are contiguous thereto, and from whence any number may be procured without difficulty; and without a sufficient proportion of that sex it is well known that it would be impossible to preserve the settlement from gross irregularities and disorders.

The whole regulation and management of the settlement should be committed to the care of a discreet officer, and provision should be made in all cases, both civil and military, by special instructions under the Great Seal, or otherwise, as may be thought proper.

Upon the whole, it may be observed with great force and truth, that the difference of expense (whatever method of carrying the convicts thither may be adopted) between this mode of disposing of them, and that of the usual ineffectual one, is too trivial to be a consideration with Government, at least in comparison with the great object to be obtained by it, especially now the evil is increased to such an alarming degree, from the inadequacy of all other expedients that have hitherto been tried or suggested.

It may not be amiss to remark in favour of this plan that considerable advantage will arise from the cultivation of the New Zealand hemp or flax plant in the new intended settlement, the supply of which would be of great consequence to us as a naval power, as our manufacturers are of opinion that canvas made of it would be superior in strength and beauty to any canvas made of the European material, and that a cable of the circumference of ten inches, made from the former,

would be superior in strength to one of eighteen inches made of the latter. The threads or filaments of this New Zealand plant are formed by nature with the most exquisite delicacy, and may be so minutely divided as to be manufactured into the finest linens.

Most of the Asiatic productions may also, without doubt, be cultivated in the new settlement, and in a few years may render our recourse to our European neighbours for those productions unnecessary.

It may also be proper to attend to the possibility of procuring from New Zealand any quantity of mast and ship timber for the use of our fleet in India, as the distance between the two countries is not greater than between Great Britain and America. It grows close to the water's edge, is of size and quality superior to any hitherto known, and may be obtained without difficulty.

STAFF ESTABLISHMENT FOR THE SETTLEMENT OF NEW SOUTH WALES

	YEARLY SALARY		
	£	s.	d.
The Naval Commander appointed Governor or Superintendent-General	500	0	0
The Commanding Officer of the Marines to be appointed Lieutenant-Governor or Deputy Superintendent	250	0	0
The Commissary of Stores and Provisions, for himself and assistants, to be appointed or named by the contractors for the provisions	200	0	0
Pay of a Surgeon	£182	10	0
Pay of two mates	182	10	0
Chaplain	182	10	0
	£1,497	10	0

ESTIMATE OF CLOTHING TO SERVE A MALE CONVICT FOR ONE YEAR

	YEAR	VALUE EACH				
	No.	s.	d.	£	s.	d.
Jackets	2	4	6	0	9	0
Woollen drawers	4	2	0	0	8	0
Hat	1	2	6	0	2	6
Shirts	3	3	0	0	9	0
Worsted stockings	4	1	0	0	4	0
Frocks	3	2	3	0	6	9
Trousers	3	2	3	0	6	9
Shoes	3	4	6	0	13	6
				£2	19	6

The expense of clothing female convicts may be computed to amount to like sum.

(*History of New South Wales*, ed. cit., I, 432.)

227. Discovery of Gold

E. Hargraves

The discovery of gold in Australia marked an epoch in the history of that country. Thitherto the vast expanse of territory had been considered of value only for the purposes of stock-raising; but under the new conditions resulting from the discovery of the precious metal the standing of the country was revolutionized. Crowds flocked to its shores, and cities rose as if by enchantment. The question of the actual discoverer of gold has never been determined, but Mr. Hargraves, whose account is given below, was the first to make the discovery known to the world, and so is fairly entitled to the honour of discoverer.

To the particulars of my own discovery I now proceed. I have already in a former chapter stated my reasons for believing in the existence of gold fields in New South Wales. It was with an anxious heart, therefore, that I again landed at Sydney, in the month of January, 1851. On my passage thither and immediately on my arrival, I made known to my friends and companions my confident expectations on the subject; one and all, however, derided me, and treated my views and opinions as those of a madman. Still undaunted, on the 5th of February I set out from Sydney on horseback alone to cross the Blue Mountains....

After resting one day at Guyong, on the 12th of February I started thence, accompanied by young Lister. Our course was down the Lewes Pond Creek, a tributary to the Summer Hill Creek, which again is a tributary of the Macquarie River. After traveling a distance of about fifteen miles, I found myself in the country that I was anxiously longing to behold again. My recollection of it had not deceived me. The resemblance of its formation to that of California could not be doubted or mistaken. I felt myself surrounded by gold; and with tremulous anxiety panted for the moment of trial, when my magician's wand should transform this trackless wilderness into a region of countless wealth.

Still one difficulty seemed to present itself. There had been an unusual drought during the summer, which was now drawing to a close, and the creek, where we then were, was completely dried up. My guide, however, in answer to my inquiries told me that we should find water lower down; so,

following its course, we soon fell in with some rocks which contained a sufficient supply.

We now turned out our horses, and seated ourselves on the turf, as it was necessary to satisfy the cravings of hunger before I ventured on my grand experiment. Had that failed, but little appetite for food would have been left me.

My guide went for water to drink, and, after making a hasty repast, I told him that we were now in the gold fields, and that the gold was under his feet as he went to fetch the water for our dinner. He started with incredulous amazement, and, on my telling him that I would now find some gold, watched my movements with the most intense interest. My own excitement, probably, was far more intense than his. I took the pick and scratched the gravel off a schistose dyke, which ran across the creek at right angles with its sides; and, with the trowel, I dug a panful of earth, which I washed in the water-hole. The first trial produced a little piece of gold. "Here it is!" I exclaimed; and I then washed five panfuls in succession, obtaining gold from all but one.

No further proof was necessary. To describe my feelings at that eventful moment would be impossible. What I said on the instant — though, I must admit, not warranted as the language of calm reflection — has been since much laughed at. And though my readers may renew the laugh, I shall not hesitate to repeat it, because, as it was the natural and impulsive impression of my overwrought feelings at the moment, so is it the only account I can now give of what those feelings were.

"This," I exclaimed to my guide, "is a memorable day in the history of New South Wales. I shall be a baronet, you will be knighted, and my old horse will be stuffed, put into a glass-case, and sent to the British Museum!"

At that instant I felt myself to be a great man. I was as mad, perhaps, at the moment, as Don Quixote was his life through; and assuredly, my companion was as simple as Sancho Panza — for the good youth afterwards told me, he expected I should obtain for him the honour I had promised.

On our return that night to the inn at Guyong, I wrote a memorandum of the discovery, which I afterwards gave to the Colonial Secretary, as a memorial of the great event.

228. Results of the Finding of Gold

Contemporary Pamphlet

The following account of the consequences of the discovery of gold is of great interest. It is written with thought as well as care, and the evil as well as the good results likely to accrue are pointed out. The former were averted by the good sense of the Australians, although at one time it seemed as if the country would fall into a worse condition than that which existed when the colony was only a penal settlement.

The first results of the Australian gold discoveries are now displayed in a tangible, unmistakable shape — individual loss, individual suffering, by the diversion of capital and labour. There may be many carried away by mere enthusiasm, who will rue the day they abandoned the certain easy employments of civilized life for the hard navigator-like trade of a gold-seeker; but the advantage of this new mineral discovery is unquestionable, in spite of all that croakers may say and sing.

Up to the middle of May, 1851, as heretofore shown, the colonial heart beat high with hope. Trade was good; the pastoral interests were flourishing; the country properties, as a matter of course, were improving; and the introduction of the alpaca, the extended culture of the vine, and the growth of cotton, appeared to present new and rich sources of wealth. At that moment came the discovery of the gold fields; and a shock was communicated to the whole industrial system, which to some people seemed to threaten almost annihilation. The idea was, that gold digging would swallow up all other pursuits, and the flocks perish in the wilderness from the want of shepherds. Nor was this altogether without foundation; for the stockholders have actually been considerable sufferers: all the industrial projects mentioned have been stopped short; and the gold-diggings still continue to attract to themselves, as if by a spell, the labour of the country. The panic, however, has now subsided. It is seen that the result is not so bad as was anticipated, and it is now rendered evident that the evil will go no further. A stream of population, it is thought, will be directed to Australia from abroad, and the labour not demanded by gold may suffice for other pursuits.

Already upwards of two millions sterling have been realised by the rude exertions of part of a population which has never yet exported more than three millions of raw produce; and with the evidence now before us, we may confidently

assert, that although there will be a temporary diminution in the exportation of Australian wool under new arrangements, the flocks of Australia will not be destroyed.

The Australian population have stood the test of gold wonderfully, and come out of the trial with honour. Their conduct, as a body, has been singularly orderly and submissive to the constituted authorities.

Two very healthy signs are displayed by the Australian diggers — the multiplication of marriages and the large consumption of the best articles of female attire.

At Port Phillip it is impossible to retain a tidy servant girl. The first luxury to which the successful gold-seeker treats himself on his return for a holiday is a wife, and the wife is then treated to the best gowns and shawls that the shops afford. A friend writes that "the carpenters and smiths of Melbourne and Geelong will not let their wives be seen in a gown of less cost than ten pounds, with a shawl and bonnet to match."

Whatever may be the taste of the workers from the Turon or Braidwood, Ballarat and Mount Alexander, it is certain that what they purchase they honestly pay for, and no one will suffer for their gains. The advantage, in a commercial point of view, is obvious. The man who was earning before £20 or £40 a year, of which, perhaps, he spent one-half in manufactures, can now afford to spend — and does spend — from £100 to £500 a year. The tales of wild extravagance are grossly exaggerated, and not at all to be depended upon. On the best authority, we can assert that the colonists are spending and investing their money in a very creditable manner. Among other proofs may be cited the circumstance of two thousand pounds received in gold-dust in less than seven weeks after his arrival at Port Phillip, by Captain Chisholm, from working men, to pay the passage of their relatives.

Now that so strong a stream of self-paid emigration is flowing, the sooner the Government free emigration is given up the better for the mother country and for the colonies. Many a man does not save as he could, to pay his own passage, because he hopes to win a prize in the Government lottery.

Education, and free, liberal education, is in truth the only thing required in Australia. Education, established and extended from the time the *May Flower* landed her Puritan freight on the bleak shores of New England, until the time

when the progress of commerce brought a deluge of emigrant ignorance, has saved America under a different form of Government, and neutralized the effect of the late annual invasion of the uneducated. But in Australia no such provision exists, or is possible. And if England goes on annually inoculating the gold fields with illiterate strong arms, the feeble efforts made by Australia to redeem the errors of past educational neglect, will never be able to overtake and arrest the disease.

(*Australia* (pamphlet), B. Fabian, N. Y., 1852. p. 77.)

CHAPTER XXXIV

THE INDIAN EMPIRE

229. The English at Surat and Bombay

Fryer

Dr. Fryer, a surgeon in the service of the East India Company, visited Surat in 1674. His travels were published in London in 1698. They contain a graphic account of the manner in which the Company conducted its affairs in India.

The house the English live in at Surat, is partly the King's gift, partly hired; built of stone and excellent timber, with good carving, without representations; very strong, for that each floor is half a yard thick at least, of the best plastered cement, which is very weighty. It is contrived after the Moor's buildings, with upper and lower galleries, or terrace-walks; a neat Oratory, a convenient open place for meals. The President has spacious lodgings, noble rooms for counsel and entertainment, pleasant tanks, yards, and a hummum to wash in; but no gardens in the city, or very few, though without the city they have many, like wildernesses, over-spread with trees. The English had a neat one, but Sevaji's coming destroyed it. It is known, as the other Factories are, by their several flags flying.

Here they live (in shipping-time) in a continual hurly-burly, the Banians presenting themselves from the hour of ten till noon; and then afternoon at four till night, as if it were an Exchange in every row; below stairs, the packers and warehouse-keepers, together with merchants bringing and receiving musters, make a mere Billingsgate; for if you make not a noise, they hardly think you intent on what you are doing.

Among the English, the business is distributed into four offices; the Accomptant, who is next in dignity to the President, the general accompts of all India, as well as this place, passing through his hands; he is quasi Treasurer, signing all things, though the broker keep the cash. Next him is the

warehouse-keeper, who registers all Europe goods vended, and receives all Eastern commodities bought; under him is the Purser Marine, who gives account of all goods exported and imported, pays seamen their wages, provides wagons and porters, looks after tackling for ships, and ships' stores. Last of all is the Secretary, who models all Consultations, writes all letters, carries them to the President and Council to be perused and signed; keeps the Company's seal, which is affixed to all passes and commissions; records all transactions, and sends copies of them to the Company; though none of these, without the President's approbation, can act or do any thing. The affairs of India are solely under his regulation; from him issue out all orders, by him all preferment is disposed; by which means the Council are biassed by his arbitrament.

The whole mass of the Company's servants may be comprehended in these classes, viz.: Merchants, Factors, and Writers; some Bluecoat Boys also have been entertained under notion of apprentices for seven years, which being expired, if they can get security, they are capable of employments. The Writers are obliged to serve five years for 10 *l. per Ann.* Giving in a bond of 500 *l.* for good behaviour, all which time they serve under some of the forementioned Offices: After which they commence Factors, and rise to preferment and trust, according to seniority or favour, and therefore have a 1,000 *l.* bond exacted from them, and have their salary augmented to 20 *l. per Ann.* for three years, then entering into new indentures, are made Senior Factors; and lastly, Merchants after Three Years more; out of whom are chose Chiefs of Factories, as places fall, and are allowed 40 *l. per Ann.* during their stay in the Company's service, besides lodgings and victuals at the Company's charges.

These in their several Seignories behave themselves after the fundamentals of Surat, and in their respective Factories live in the like grandeur; from whence they rise successively to be of the Council in Surat, which is the great Council; and if the President do not contradict, are sworn, and take their place accordingly, which consists of about five in number, besides the president, to be constantly resident.

As for the Presidency, though the Company interpose a deserving man, yet they keep that power to themselves, none assuming that dignity till confirmed by them: His salary from the Company is 500 *l.* a year; half paid here, the other half reserved to be received at home, in case of misdemeanour

to make satisfaction; beside a bond of 5,000 *l.* sterling of good securities.

The Accountant has 72 *l. per Ann.*, fifty pound paid here, the other at home: All the rest are half paid here, half at home, except the Writers, who have all paid here.

Out of the Council are elected the Deputy-Governor of Bombay, and Agent of Persia; the first a place of great trust, the other of profit; though, by the appointment from the Company, the Second of India claims Bombay, and the Secretary of Surat the Agency of Persia, which is connived at, and made subject to the will of the President, by the interest of those whose lot they are; chusing rather to reside here, where consignments compensate those emoluments; so that none of the council, if noted in England, but makes considerably by his place, after the rate of five in the hundred, commission; and this is the Jacob's ladder by which they ascend.

It would be too mean to descend to indirect ways, which are chiefly managed by the Banians, the fittest tools for any deceitful undertaking; out of whom are made brokers for the Company, and private persons, who are allowed two per cent. on all bargains, besides what they squeeze secretly out of the price of things bought; which cannot be well understood for want of knowledge in their language; which ignorance is safer, than to hazard being poisoned for prying too nearly into their actions: Though the Company, to encourage young men in their service, maintain a master to learn them to write and read the language, and an annuity to be annexed when they gain a perfection therein, which few attempt, and fewer attain.

To this Factory belong twenty persons in number, reckoning Swally Marine into the account; a Minister for Divine Service, a Surgeon, and when the President is here, a guard of English soldiers, consisting of a double file led by a Sergeant.

The present Deputy has only forty Moor-men, and a flag-man, carrying St. George his colours swallow-tailed in silk, fastened to a silver partisan; with a small attendance of horse with silver bridles, and furniture for the gentlemen of the house, and coaches for ladies and Council.

The President besides these has a noise of trumpets, and is carried himself in a Palenkeen, a horse of state led before him, a Mirchal (a fan of ostriches' feathers) to keep off the sun, as the Omrahs or great men have, none but the Emperor

have a Sumbbrero among the Moguls: Besides these, every one according to his quality has his menial servants to wait on him in his chamber, and follow him out. . . .

But lest the New Company should be exclaimed against as too greedy monopolizers, they permit free traders on their Island Bombay; when, to speak truth, they are in a far worse condition than their servants; being tied up without hopes of raising themselves: so that in earnest they find out that to be but a trick.

However, to confess on the Company's behalf, the trade (I mean on this coast) for some years lately passed has hardly balanced expenses. They employing yearly forty sail of stout ships to and from all parts where they trade, out and home; manning and maintaining their Island Bombay, Fort St. George, and St. Helens; besides large sums expended to bear out the port of their Factors; which notwithstanding by impartial computation has been found inferior to the costs of the Hollanders, and therefore more to the profit of the English East India Company, than theirs, in the few years they have adventured; so that I should mightily blame them should they prove ungrateful to His Majesty, who by his gracious favour has united them in a society, whereby they are competitors for riches (though not strength) with the notedest Company in the universe.

This Charter was granted presently after the happy restoration of our Gracious Sovereign, when order began to dawn, and dispel the dark chaos of popular community: Then was sent out a President, to put their Charter in force, and establish a graduation among their servants, which before was not observed; only for order's sake, they did nominate an Agent; the rest being independent, made no distinction. When as now, after a better model, they commence according to their standing, and are under a collegiate manner of restraint.

(New Account of *East India and Persia*, John Fryer, M. D., London, 1698.
Reprinted in *Early Records of British India*, J. T. Wheeler, London, 1878.)

230. Letter of Warren Hastings

Hastings

The following letter from Warren Hastings is interesting as setting forth his side of the discussion which resulted in his impeachment. Being a private letter to a personal friend, it is unlikely that the former ruler of India would therein defend himself against accusation unless he at least believed that the defence was justifiable. Hastings' trial was memorable in the history of India, for the reason that, whether or not he was

guilty of the crimes imputed to him, it served as a warning to future rulers in their transactions with the natives. They learned that there was retribution in store for cruelty and oppression, and that the "pagoda-tree" could not be robbed with impunity.

TO SIR JOHN SHORE

St. James's Place, 19th February, 1787.

Dear Shore, — As I have now every reason to believe that an impeachment will be carried against me to the House of Lords, and have had a severe warning given me not to trust to my own integrity, or services, as I may conceive them, for the event, — and as I fear no issue of the trial so much as its influence upon my future and lasting reputation, — I apply to you, my friend, to afford me such assistance as, I hope, may be in your power to obviate such a conclusion, by collecting the testimonials of the most respectable inhabitants of the provinces of Bengal, and such other creditable vouchers, of whatever kind, beyond the provinces, as may refute the calumnies with which I have been loaded, and ascertain whatever pretensions I may have to more positive merit.

I am charged with cruelty, oppression, violation of treaties, and with the general guilt of having sacrificed every duty to the views of interest, ambition, or private vengeance. I am not sure that rapacity makes a part of the catalogue of my imputed crimes, because the instances which have been adduced in evidence to prove it apply only to acts done for the relief of the public necessities, and it is scarcely (I believe not at all) insinuated, that I have practiced it for any profit of my own.

I wish to make my appeal to the justice and generosity of those to whom it best appertains to pronounce upon my real character, according to their several relations or concerns with the government of Bengal during the periods in which I held an efficient share in its powers; that they may declare whether I deserve these imputations, or whether I am entitled to their testimony of the reverse.

Whether I have extorted money from individuals to gratify my own avarice; or whether I have not notoriously abstained from every means which might have promoted my own interest, with the injury of individuals or the public:

Whether I have countenanced, or permitted; or whether I have not, on the contrary, to the utmost of my power prevented men in office or favour from oppressing or plunder-

ing those who were subjected to their authority or influence:

Whether the provinces have been infested with robbers, or plundering Seneassies, as much during my administration as in the times preceding it:

Whether the provinces have suffered the calamities either of war or famine during my administration; or whether they have not enjoyed both uninterrupted peace and abundance, though our Government and nation were for years engaged in wars with powerful states and neighbours, and were at one time threatened with a dearth from the same causes which produced one in 1768:

Whether I have oppressed the reiaty by intolerable or unequal taxes, for the public service; or whether I have not rather multiplied the sources of the public wealth, and equalised the burthens imposed on the people.

Whether I have neglected the administration of justice; or whether I have not established Courts of Civil and Criminal Justice, and supported both in the exercise of their functions beyond the experience of any former times:

Whether I have offended, or discountenanced the laws, customs, and religious worship of the country; or whether I have not respected, protected, and conformed to them:

Whether I have shown a disregard to science; or whether I have not, on the contrary, by public endowments, by personal attentions, and by the selection of men for appointments suited to their talents, given effectual encouragement to it:

Whether in my public negociations, and in my general intercourse, I have made use of artifice and trick, or of truth and plain-dealing:

Whether I have affected a display of state; whether I have ever shown an inordinate solicitude for my personal safety; or whether I have not been thought to err in the opposite extremes:

Whether I left the country in a worse or in a better state of population and cultivation than I found it:

And lastly, whether the English name, power, and influence were ever greater, more respected, or more extensively known in India before than during my administration, and particularly at the close of it.

The persons who can be most instrumental in collecting the suffrages which I require, are Gunga Govin Sing; Allee Ibraheem Cawn; Beneram, or Bissumbes Pundit; Rajah Govindram; Tofuzzel Hossein Cawn; Mowlary Majud O'Deen,

or his brother Muftee Ahmed; and I believe I may venture to join Mahdajee Sindia. I would wish at least to have his testimony, and those of every other chief with whom our Government was in connexion; Moodajee, the ministers of Poona, Nizam al Moolk, Assof o'Dowlah, and the Nabob Wallah Jah.

I cannot prescribe the means. Perhaps I have been too particular in detailing the ends. But you must make allowance for my anxiety, and the cause which I have to make me more than ordinarily anxious.

If you think that you can undertake this commission with an assurance of its complete execution, you will of course (as I should on every account wish) first propose it to Lord Cornwallis for his approbation. If he objects to it, there must of course be an end to it. Even from the little which I know of his Lordship, and from his general character, I give him credit for qualities incompatible with such a supposition, and assure myself besides that he will not in Bengal have changed the opinion which he entertained of me in England for a worse.

I will not ask your forgiveness for wishing to impose on you so much trouble; but I ought if I thought that it might eventually draw on you the same enmities which are now directed at me. I confess, I think such may be the consequence, though I rather hope that the crisis of this phrenzy may terminate with me. If it does not, I am not sure that any conduct will be a safeguard against it.

You will readily comprehend that I do not mean to use the justification which I solicit from your means for any purpose of meeting the impending trial; for though I am certain that every artifice will be put in practice to protract it, it will be impossible to extend the delay beyond another sessions; I mean another after the present. The result, therefore, of this plan can be of no other benefit to me than that of retrieving my character from the injury which it may have received from the present prosecution, and its legal consequences. These must all have ceased long before the result of my commission can arrive in England. I am not sure that the House of Commons will vote an impeachment. I cannot be certain that the same prejudices, the same intrigues, and the same influence may not follow me into the House of Lords, though in judicial matters the character of that assembly stands hitherto unimpeached. But I have been told by judgments much better informed than those of common men, that much

is to be apprehended, even in that assembly, from the respect paid to a decided judgment of the House of Commons, and yet more to the ascribed inclination of the minister; and I myself have my doubts of another kind. The charges may prove so numerous and complicated, that every mind will not be able to comprehend them, or to retain even what they do comprehend; and the tedious and artificial examination of the witnesses to every charge will, with other process, take up such a length of time, that the aged, infirm, and indifferent will not sit out the trial. I may therefore lose many verdicts in my favour. None will be lost of those which are predetermined against me. I am almost ashamed of these suspicions, yet, after what has passed, how can I avoid them? I have been condemned by one assembly for having intended by a resolution, which was confined to my own breast, to exact a fine from Cheyt Sing exceeding his offences, admitted to be great, and a fine, if moderate, admitted to be a legal and proper punishment. I have been condemned for permitting the jagheers and treasures to be taken from the mother of the Nabob Assof o'Dowlah, because in the evidence adduced by my prosecutor to prove my guilt, I had not brought proofs sufficient of the Begum's rebellion against her sovereign, and hostility to our nation; though the charge, black and rancorous as it is, and the admired harangue of the mover of the charge, fabricated with the labour of months, and the combination of all the powers of a great party, both stated in terms that the money produced by these exactions was applied to the relief of the public necessities, and they have not dared to suggest that I took or attempted to take any part of it to my own use. Let, however, this business end as it will, a great portion of mankind will think they judge with candour, if, unable to comprehend any part of the accusations, they acquit me, at a guess, of some, and conclude that where so much is alleged against me, much of it must be necessarily true. The plan which I have recommended may be productive of that species of evidence which the meanest capacity will understand, and which will most effectually and totally efface every prejudice against me. Let it arrive when it will, whether I shall have received an absolute and unqualified acquittal, or a condemnation; whether I am alive or dead, it will answer the end for which I want it. I am ever, my dear Shore, your most affectionate friend.

231. Cession of India to the English Crown

(1858)

Nolan

In 1858 the old East India Company formally resigned its interests in India, and the land became entirely subject to the crown of England. There were many reasons for this step; the old government had not proved entirely faithful to the trusts reposed in it, and there was need for a more stable form of rule. The proclamation made by the Queen sets forth the policy adopted by England in assuming control. It must be remembered that at the time of the transfer the India Mutiny was in progress; hence the clauses as to the enforcement of justice and the granting of clemency. It is probable that to this fact was also due the tenderness displayed for the religious feelings of the natives.

PROCLAMATION BY THE QUEEN IN COUNCIL TO THE PRINCES,
CHIEFS, AND PEOPLE OF INDIA

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland, and of the Colonies and Dependencies thereof in Europe, Asia, Africa, America, and Australia, Queen, Defender of the Faith.

Whereas, for divers weighty reasons, we have resolved, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, to take upon ourselves the government of the territories in India heretofore administered in trust for us by the Honourable East India Company,

Now, therefore, we do by these presents notify and declare that, by the advice and consent aforesaid, we have taken upon ourselves the said government; and we hereby call upon all our subjects within the said territories to be faithful, and to bear true allegiance to us, our heirs and successors, and to submit themselves to the authority of those whom we may hereafter, from time to time, see fit to appoint to administer the government of our said territories, in our name and on our behalf.

And we, reposing especial trust and confidence in the loyalty, ability, and judgment of our right trusty and well-beloved cousin and counsellor, Charles John, Viscount Canning, do hereby constitute and appoint him, the said Viscount Canning, to be our first Viceroy and Governor-General in and over our said territories, and to administer the government thereof in our name, and generally to act in our name and on our behalf, subject to such orders and regulations as he shall, from time to time, receive from us through one of our Principal Secretaries of State,

And we do hereby confirm in their several offices, civil and military, all persons now employed in the service of the Honourable East India Company, subject to our future pleasure, and to such laws and regulations as may hereafter be enacted.

We hereby announce to the native princes of India that all treaties and engagements made with them by or under the authority of the Honourable East India Company are by us accepted, and will be scrupulously maintained, and we look for the like observance on their part.

We desire no extension of our present territorial possessions; and, while we will permit no aggression upon our dominions or our rights to be attempted with impunity, we shall sanction no encroachment on those of others. We shall respect the rights, dignity, and honour of native princes as our own; and we desire that they, as well as our own subjects, should enjoy that prosperity and that social advancement which can only be secured by internal peace and good government.

We hold ourselves bound to the natives of our Indian territories by the same obligations of duty which bind us to all our other subjects, and those obligations, by the blessing of Almighty God, we shall faithfully and conscientiously fulfil.

Firmly relying ourselves on the truth of Christianity, and acknowledging with gratitude the solace of religion, we disclaim alike the right and desire to impose our convictions on any of our subjects. We declare it to be our royal will and pleasure that none be in anywise favoured, none molested or disquieted, by reason of their religious faith or observances, but that all shall alike enjoy the equal and impartial protection of the law; and we do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious belief or worship of any of our subjects on pain of our highest displeasure.

And it is our further will that, so far as may be, our subjects, of whatever race or creed, be freely and impartially admitted to offices in our service, the duties of which they may be qualified, by their education, ability, and integrity, duly to discharge.

We know, and respect, the feelings of attachment with which the natives of India regard the lands inherited by them from their ancestors, and we desire to protect them in all rights connected therewith, subject to the equitable demands of the State; and we will that, generally, in framing and ad-

ministering the law, due regard be paid to the ancient rights, usages, and customs of India.

We deeply lament the evils and misery which have been brought upon India by the acts of ambitious men, who have deceived their countrymen by false reports, and led them into open rebellion. Our power has been shown by the suppression of that rebellion in the field: we desire to show our mercy by pardoning the offences of those who have been thus misled, but who desire to return to the path of duty.

Already, in one province, with a view to stop the further effusion of blood, and to hasten the pacification of our Indian dominions, our Viceroy and Governor-General has held out the expectation of pardon, on certain terms, to the great majority of those who, in the late unhappy disturbances, have been guilty of offences against our Government, and has declared the punishment which will be inflicted on those whose crimes place beyond the reach of forgiveness. We approve and confirm the said act of our Viceroy and Governor-General, and do further announce and proclaim as follows:

Our clemency will be extended to all offenders, save and except those who have been, or shall be, convicted of having directly taken part in the murder of British subjects. With regard to such the demands of justice forbid the exercise of mercy.

To those who have willingly given asylum to murderers, knowing them to be such, or who may have acted as leaders or instigators in revolt, their lives alone can be guaranteed; but, in apportioning the penalty due to such persons, full consideration will be given to the circumstances under which they have been induced to throw off their allegiance; and large indulgence will be shown to those whose crimes may appear to have originated in the credulous acceptance of the false reports circulated by designing men.

To all others in arms against the government we hereby promise unconditional pardon, amnesty, and oblivion of all offence against ourselves, our crown, and dignity, on their return to their homes and peaceful pursuits.

It is our royal pleasure, that these terms of grace and amnesty should be extended to all those who comply with these conditions before the 1st day of January next.

When, by the blessing of Providence, internal tranquillity shall be restored, it is our earnest desire to stimulate the peaceful industry of India, to promote works of public utility and improvement, and to administer its government for the

benefit of all our subjects resident therein. In their prosperity will be our strength, in their contentment our security, and in their gratitude our best reward. And may the God of all power grant to us, and to those in authority under us, strength to carry out these our wishes for the good of our people.

(*History of India*, E. H. Nolan, Lond., n. d., III, p. 1.)

232. Victoria, Empress of India

(1877)

Wheeler

In 1876 Victoria issued a formal proclamation, in which she assumed the dignity and title of Empress of India. This proclamation recited that on January 1, 1877, the said title and dignity were to vest in the royal house of England. The date named was made a day of festivity in India. The royal proclamation was read at Delhi with impressive ceremonies. The account of these ceremonies, which also contains the text of the royal proclamation, is given.

The first of January eighteen hundred and seventy-seven was the great day of the Imperial Assemblage. Her Majesty the Queen of England was proclaimed Empress of India. The Governors and other High Officials of British India were assembled together with all the Ruling Native Chiefs to inaugurate the installation of the Empress as the Sovereign of Her Eastern Empire. . . .

The scene of the Proclamation was a turf-covered plain about four miles from Delhi. Three structures had been set up, namely, a Throne Pavilion for the Viceroy, an Amphitheatre for the High Officials and Ruling Chiefs, and blocks for Representatives of Foreign Governments and spectators.

The Throne Pavilion was a graceful building of blue, red, and gold, near the centre of the area. It was a hexagon; each of its sides was forty feet long; the whole was thus about two hundred and twenty-four feet round. The details are worth describing. The lower part was a solid structure of masonry ten feet from the ground. It was surrounded by a gilded railing. There was a flight of steps in front and another behind, also with gilded railings. The upper part was a canopy raised over the structure, supported on twelve slender clustered shafts. The Imperial Crown at the top rested upon a cushion. Beneath it depended a graceful drapery of red clothes embroidered with gold. On the upper cornice was worked a pattern of festooned laurel wreaths and Imperial Crowns. At each angle was a trophy of three

satin bannerets, festooned outwards, displaying the Cross of St. George and the Union Jack. Below the cornice the canopy was continued in alternate stripes of red and white satin, embroidered with golden *fleurs de lis*. There was a lower frieze with an armorial vallance hanging from it. The frieze displaced the Rose, Shamrock, and Thistle, embroidered with the Lotos of India in gold, silver, and colours. It was adorned at each angle by a gilded crown and silken drapery. The vallance was composed of shield-shaped forms, on which were shown alternately the Irish Harp, the Lion Rampant of Scotland, and the three Lions of England. The shafts of the canopy were hung with silver shields, about ten feet from the ground, bearing the imperial monogram in gold, surmounted by bannerets of various-coloured satins. . . .

From an early hour there had been a general gathering towards the Imperial Assemblage. Ruling Chiefs drove by in state carriages accompanied by retainers and soldiers. Groups of elephants crowded to the same spot clad in the trappings they had worn on the day of the entry. Vast multitudes also assembled to see the various Chiefs and High Officials pass by on their way to the place of Proclamation. The spectators' seats on either side of the Throne Pavilion were occupied by Ambassadors, Envoys, and Deputations, including those from Nipal and Siam; also by Foreign Consuls, and a large number of European ladies and gentlemen. Here also were seated the Khan of Khelat, the Governor-General of the Portuguese Settlements in India, and numerous Native nobles and officials. The general public were also admitted in great numbers to the inclosure, behind the Amphitheatre.

All the British troops assembled at Delhi were drawn up on a plain, to the north of the pavilions; the Native chiefs and nobles had in like manner drawn up their retainers and followers on the opposite plain to the south of the pavilions.

Guards of honour were drawn up on either side of the Throne Pavilion, as well as at each of the several entrances to the Amphitheatre.

At noon a flourish of trumpets from the Heralds announced the arrival of His Excellency the Viceroy. All who were present in that vast assembly rose from their seats; the military bands played a grand march. His Excellency, who was accompanied by Lady Lytton and the members of his family, alighted from his carriage and advanced towards the Throne Pavilion preceded by the Personal Staff. The

bands struck up the National Anthem, and the guards of honour presented arms as the Viceroy took his seat upon the throne.

The proceedings were simple and impressive. His Excellency was arrayed in his robes as Grand Master of the Star of India. He commanded the Chief Herald to read the Proclamation of the assumption of the Imperial Title by Her Majesty the Queen. The twelve Heralds sounded a flourish of trumpets. The Chief Herald then read the Proclamation in a loud voice, which was heard by the whole Assemblage.

“VICTORIA, R.

“Whereas an Act has been passed in the present Sessions of Parliament, intituled ‘An Act to enable Her Most Gracious Majesty to make an addition to the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies,’ which Act recites that, by the Act for the Union of Great Britain and Ireland, it was provided that after such Union the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies should be such as His Majesty by His Royal Proclamation under the Great Seal of the United Kingdom should be pleased to appoint: and which Act also recites that, by virtue of the said Act, and of a Royal Proclamation under the Great Seal, dated the 1st day of January 1801, Our present Style and Titles are ‘VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland QUEEN, Defender of the Faith’: and which Act also recites that, by the Act for the better government of India, it was enacted that the Government of India, theretofore vested in the East India Company in trust for Us, should become vested in Us, and that India should thenceforth be governed by Us and in Our name, and that it is expedient that there should be a recognition of the transfer of government so made by means of an addition to be made to Our Style and Titles: and which Act, after the said recitals, enacts that it shall be lawful for Us, with a view to such recognition as aforesaid, of the transfer of the Government of India, by Our Proclamation under the Great Seal of the United Kingdom to make such addition to the Style and Titles at present appertaining to the Imperial Crown of the United Kingdom and its Dependencies as to Us may seem meet; we have thought fit, by and with the advice of Our

Privy Council, to appoint and declare, and We do hereby, by and with the said advice, appoint and declare that henceforth, so far as conveniently may be, on all occasions and in all instruments wherein Our Style and Titles are used, save and except all Charters, Commissions, Letters Patent, Grants, Writs, Appointments, and other like instruments, not extending in their operation beyond the United Kingdom, the following addition shall be made to the Style and Titles at present appertaining to the Imperial Crown of the United Kingdom and its Dependencies; that is to say, in the Latin tongue in these words: 'INDIÆ IMPERATRIX.' And in the English tongue in these words: 'EMPRESS OF INDIA.'

"And Our will and pleasure further is, that the said addition shall not be made in the Commissions, Charters, Letters Patent, Grants, Writs, Appointments, and other like instruments, hereinbefore specially excepted.

"And Our will and pleasure further is, that all gold, silver, and copper moneys, now current and lawful moneys of the United Kingdom, and all gold, silver, and copper moneys which shall on or after this day be coined by Our authority with the like impressions, shall, notwithstanding such addition to Our Style and Titles, be deemed and taken to be current and lawful moneys of the said United Kingdom; and further, that all moneys coined for and issued in any of the Dependencies of the said United Kingdom, and declared by Our Proclamation to be current and lawful money of such Dependencies respectively bearing Our Style, or Titles, or any part or parts thereof, and all moneys which shall hereafter be coined and issued according to such Proclamation, shall, notwithstanding such addition, continue to be lawful and current money of such Dependencies respectively, until Our pleasure shall be further declared thereupon.

"Given at Our Court at Windsor the twenty-eighth day of April One thousand eight hundred and seventy-six in the thirty-ninth year of Our Reign.

"GOD SAVE THE QUEEN."

(History of the Imperial Assemblage at Delhi, J. T. Wheeler, Lond., n. d., p. 70.)

CHAPTER XXXV

ENGLAND AND THE TRANSVAAL

233. The Sand River Convention

The far-reaching consequences which threatened to result from the war between England and the Transvaal Republic, the questions in diplomacy and international law which have been raised, seem to justify a departure from the principles hitherto followed in the making of this book. I have therefore given the complete texts of the three important conventions by which the contesting nations sought to justify their respective positions. The first of these treaties is entitled The Sand River Convention, and was made in 1852.

Minute of a meeting held on the farm of Mr. P. A. Venter, Sand River, on Friday, the 16th day of January, 1852, between her Majesty's Commissioners, Major W. S. Hogge and C. M. Owen, appointed to settle the affairs of the east and north-east boundaries of the Cape Colony, on the one part; and the following deputies of the emigrant Boers, living north of Vaal River, on the other hand: A. W. J. Pretorius, Comdt.-General; H. S. Lombard, Landdrost; H. F. Joubert, Comdt.-General; G. F. Krieger, Commandant, and twelve others.

I. The Assistant Commissioners guarantee in the fullest manner, on the part of the British Government, to the emigrant farmers beyond the Vaal River, the right to manage their own affairs, and to govern themselves according to their own laws, without any interference on the part of the British Government; and that no encroachment shall be made by the said Government on the territory beyond, to the north of the Vaal River, with the further assurance that the warmest wish of the British Government is to promote peace, free trade, and friendly intercourse with the emigrant farmers now inhabiting, or who may inhabit, that country; it being understood that this system of non-interference is binding upon both parties.

2. Should any misunderstanding hereafter arise as to the true meaning of the words, "The Vaal River," this question, in so far as it regards the line from the source of that river, over to Drakensberg, shall be settled and adjusted by Commissioners chosen by both parties.

3. Her Majesty's Assistant Commissioners hereby disclaim all alliances whatever and with whomsoever of the coloured nations to the north of the Vaal River.

4. It is agreed that no slavery is or shall be permitted or practised in the country to the north of the Vaal River by the emigrant farmers.

5. Mutual facilities and liberty shall be afforded to traders and travellers on both sides of the Vaal River; it being understood that every waggon containing firearms, coming from the south side of the Vaal River, shall produce a certificate signed by a British magistrate, or other functionary, duly authorized to grant such, and which shall state the quantities of such articles contained in said waggon to the nearest magistrate north of the Vaal River, who shall act in the case as the regulations of the emigrant farmers direct. It is agreed that no objections shall be made by any British authority against the emigrant Boers purchasing their supplies of ammunition in any of the British Colonies and possessions of South Africa; it being mutually understood that all trade in ammunition with the native tribes is prohibited, both by the British Government and the emigrant farmers on both sides of the Vaal River.

6. It is agreed that, so far as possible, all criminals and other guilty parties who may fly from justice either way across the Vaal River shall be mutually delivered up, if such should be required; and that the British courts, as well as those of the emigrant farmers, shall be mutually opened to each other for all legitimate processes, and that summonses for witnesses sent either way across the Vaal River shall be backed by the magistrates on each side of the same respectively, to compel the attendance of such witnesses when required.

7. It is agreed that certificates of marriage issued by the proper authorities of the emigrant farmers shall be held valid and sufficient to entitle children of such marriages to receive portions accruing to them in any British colony or possession in South Africa.

8. It is agreed that any and every person now in possession of land, and residing in British territory, shall have free

right and power to sell his said property, and remove unmolested across the Vaal River and *vice versa*; it being distinctly understood that this arrangement does not comprehend criminals or debtors without providing for the payment of their just and lawful debts.

(From a published copy of the original document.)

234. The Convention of Pretoria

The second treaty between the Transvaal and England was that made at Pretoria in 1881. While the suzerainty of the Queen of England is specifically acknowledged in the Preamble, the rights of England in the Transvaal are definitely limited. Although much of the convention is of minor interest, it has been thought best to give the whole document.

Preamble. Her Majesty's Commissioners for the settlement of the Transvaal territory, duly appointed as such by a commission passed under the Royal Sign Manual and Signet, bearing date the 5th of April, 1881, do hereby undertake and guarantee on behalf of her Majesty that, from and after the 8th day of August, 1881, complete self-government, subject to the suzerainty of her Majesty, her heirs and successors, will be accorded to the inhabitants of the Transvaal territory, upon the following terms and conditions, and subject to the following reservations and limitations:—

Article 1. The said territory, to be hereinafter called the Transvaal State, will embrace the land lying between the following boundaries, to wit: [here follows definition of boundaries.]

Article 2. Her Majesty reserves to herself, her heirs and successors (*a*) the right from time to time to appoint a British Resident in and for the said state, with such duties and functions as are hereinafter defined; (*b*) the right to move troops through the said state in time of war, or in case of the apprehension of immediate war between the suzerain power and any foreign state or native tribe in South Africa; and (*c*) the control of the external relations of the said state, including the conclusion of treaties and the conduct of diplomatic intercourse with foreign powers, such intercourse to be carried on through her Majesty's diplomatic and consular officers abroad.

Article 3. Until altered by the Volksraad, or other competent authority, all laws, whether passed before or after the annexation of the Transvaal territory to her Majesty's

dominions, shall, except in so far as they are inconsistent with or repugnant to the provisions of this Convention, be and remain in force in the said state in so far as they shall be applicable thereto, provided that no future enactment especially affecting the interest of natives shall have any force or effect in the said state, without the consent of her Majesty, her heirs and successors, first had and obtained and signified to the government of the said state through the British Resident; provided further that in no case will the repeal or amendment of any laws enacted since the annexation have a retrospective effect, so as to invalidate any acts done or liabilities incurred by virtue of such laws.

Article 4. On the 8th day of August, 1881, the government of the said state, together with all rights and obligations thereto appertaining, and all state property taken over at the time of annexation, save and except munitions of war, will be handed over to Messrs. Stephanus Johannes Paulus Kruger, Martinus Wessel Pretorius, and Petrus Jacobus Joubert, or the survivor or survivors of them, who will forthwith cause a Volksraad to be elected and convened, and the Volksraad, thus elected and convened, will decide as to the further administration of the government of the said state.

Article 5. All sentences passed upon persons who may be convicted of offences contrary to the rules of civilized warfare committed during the recent hostilities will be duly carried out, and no alteration or mitigation of such sentences will be made or allowed by the Government of the Transvaal State without her Majesty's consent conveyed through the British Resident. In case there shall be any prisoners in any of the gaols of the Transvaal State whose respective sentences of imprisonment have been remitted in part by her Majesty's Administrator or other officer administering the Government, such remission will be recognised and acted upon by the future government of the said state.

Article 6. Her Majesty's Government will make due compensation for all losses and damage sustained by reason of such acts as are in the 8th Article hereinafter specified, which may have been committed by her Majesty's forces during the recent hostilities, except for such losses or damage as may already have been compensated for, and the Government of the Transvaal State will make due compensation for all losses or damage sustained by reason of such acts as are in the 8th Article hereinafter specified which may have been committed by the people who were in arms against her

Majesty during the recent hostilities, except for such losses or damage as may already have been compensated for.

Article 7. The decision of all claims for compensation, as in the last preceding Article mentioned, will be referred to a sub-commission, consisting of the Hon. George Hudson, the Hon. Jacobus Petrus de Wet, and the Hon. John Gilbert Kotzé. In case one or more of such sub-commissioners shall be unable or unwilling to act, the remaining sub-commissioner or sub-commissioners will, after consultation with the Government of the Transvaal State, submit for the approval of her Majesty's High Commissioners the names of one or more persons to be appointed by them to fill the place or places thus vacated. The decision of the said sub-commissioners, or of a majority of them, will be final. The said sub-commissioners will enter upon and perform their duties with all convenient speed. They will, before taking evidence or ordering evidence to be taken in respect of any claim, decide whether such claim can be entertained at all under the rules laid down in the next succeeding Article. In regard to claims which can be so entertained, the sub-commissioners will, in the first instance, afford every facility for an amicable arrangement as to the amount payable in respect of any claim, and only in cases in which there is no reasonable ground for believing that an immediate amicable arrangement can be arrived at will they take evidence or order evidence to be taken. For the purpose of taking evidence and reporting thereon, the sub-commissioners may appoint deputies, who will, without delay, submit records of the evidence and their reports to the sub-commissioners. The sub-commissioners will arrange their sittings and the sittings of their deputies in such a manner as to afford the earliest convenience to the parties concerned and their witnesses. In no case will costs be allowed to either side, other than the actual and reasonable expenses of witnesses whose evidence is certified by the sub-commissioners to have been necessary. Interest will not run on the amount of any claim, except as is hereinafter provided for. The said sub-commissioners will forthwith, after deciding upon any claim, announce their decision to the Government against which the award is made and to the claimant. The amount of remuneration payable to the sub-commissioners and their deputies will be determined by the High Commissioners. After all the claims have been decided upon, the British Government and the Government of the Transvaal State will pay proportionate shares of the said

remuneration and of the expenses of the sub-commissioners and their deputies, according to the amount awarded against them respectively.

Article 8. For the purpose of distinguishing claims to be accepted from those to be rejected, the sub-commissioners will be guided by the following rules, viz.:— Compensation will be allowed for losses or damage sustained by reason of the following acts committed during the recent hostilities, viz., (*a*) commandeering, seizure, confiscation, or destruction of property, or damage done to property; (*b*) violence done or threats used by persons in arms. In regard to acts under (*a*), compensation will be allowed for direct losses only. In regard to acts falling under (*b*), compensation will be allowed for actual losses of property, or actual injury to the same proved to have been caused by its enforced abandonment. No claims for indirect losses, except such as are in this Article specially provided for, will be entertained. No claims which have been handed in to the Secretary of the Royal Commission after the first day of July, 1881, will be entertained, unless the sub-commissioners shall be satisfied that the delay was reasonable. When claims for loss of property are considered, the sub-commissioners will require distinct proof of the existence of the property, and that it neither has reverted nor will revert to the claimant.

Article 9. The Government of the Transvaal State will pay and satisfy the amount of every claim awarded against it within one month after the sub-commissioners shall have notified their decision to the said Government, and in default of such payment the said Government will pay interest at the rate of six per cent. per annum from the date of such default; but her Majesty's Government may at any time before such payment pay the amount, with interest, if any, to the claimant in satisfaction of his claim, and may add the sum thus paid to any debt which may be due by the Transvaal State to her Majesty's Government, as hereinafter provided for.

Article 10. The Transvaal State will be liable for the balance of the debts for which the South African Republic was liable at the date of annexation, to wit, the sum of 48,000 *l.* in respect to the Cape Commercial Bank Loan, and 85,667 *l.* in respect to the Railway Loan, together with the amount due on the 8th of August, 1881, on account of the Orphan Chamber Debt, which now stands at 22,200 *l.*, which debts will be a first charge upon the revenues of the State. The Transvaal State will, moreover, be liable for the lawful

expenditure lawfully incurred for the necessary expenses of the province since the annexation, to wit, the sum of 265,000 *l.*, with debt, together with such debts as may be incurred by virtue of the 9th Article, will be second charge upon the revenues of the State.

Article 11. The debts due as aforesaid by the Transvaal State to her Majesty's Government will bear interest at the rate of three and a half per cent., and any portion of such debt as may remain unpaid at the expiration of twelve months from the 8th of August, 1881, shall be repayable by a payment for interest and sinking fund of six pounds and ninepence per cent. per annum, which will extinguish the debt in twenty-five years. The said payment of six pounds and ninepence per 100 *l.* shall be payable half-yearly in British currency on the 8th of February and the 8th of August in each year. Provided always, that the Transvaal State shall pay in reduction of the said debt the sum of 100,000 *l.* within twelve months of the 8th of August, 1881, and shall be at liberty at the close of any half-year to pay off the whole or any portion of the outstanding debt.

Article 12. All persons holding property in the said State on the 8th day of August, 1881, will continue after the said date to enjoy the rights of property which they have enjoyed since the annexation. No person who has remained loyal to her Majesty during the recent hostilities shall suffer any molestation by reason of his loyalty, or be liable to any criminal prosecution or civil action for any part taken in connection with such hostilities, and all such persons will have full liberty to reside in the country, with enjoyment of all civil rights, and protection for their persons and property.

Article 13. Natives will be allowed to acquire land, but the grant or transfer of such land will, in every case, be made to and registered in the name of the Native Location Commission, hereinafter mentioned, in trust for such natives.

Article 14. Natives will be allowed to move as freely within the country as may be consistent with the requirements of public order, and to leave it for the purpose of seeking employment elsewhere or for other lawful purposes, subject always to the past laws of the said State, as amended by the Legislature of the Province, or as may hereafter be enacted under the provisions of the Third Article of this Convention.

Article 15. There will continue to be complete freedom

of religion and protection from molestation for all denominations, provided the same be not inconsistent with morality and good order, and no disability shall attach to any person in regard to rights of property by reason of the religious opinions which he holds.

Article 16. The provisions of the Fourth Article of the Sand River Convention are hereby reaffirmed, and no slavery or apprenticeships partaking of slavery will be tolerated by the Government of the said State.

Article 17. The British Resident will receive from the Government of the Transvaal State such assistance and support as can by law be given to him for the due discharge of his function; he will also receive every assistance for the proper care and preservation of the graves of such of her Majesty's forces as have died in the Transvaal, and if need be for the expropriation of land for the purpose.

Article 18. The following will be the duties and functions of the British Resident:—

Sub-section 1. He will perform duties and functions analogous to those discharged by a *Chargé-d'Affaires* and Consul-General.

Sub-section 2. In regard to natives within the Transvaal State he will (*a*) report to the High Commissioner, as representative of the Suzerain, as to the working and observance of the provisions of this Convention; (*b*) report to the Transvaal authorities any cases of ill-treatment of natives or attempts to incite natives to rebellion that may come to his knowledge; (*c*) use his influence with the natives in favour of law and order; and (*d*) generally preform such other duties as are by this Convention entrusted to him, and take such steps for the protection of the person and property of natives as are consistent with the laws of the land.

Sub-section 3. In regard to natives not residing in the Transvaal (*a*) he will report to the High Commissioner and the Transvaal Government any encroachments reported to him as having been made by Transvaal residents upon the land of such natives, and in case of disagreement between the Transvaal Government and the British Resident as to whether an encroachment has been made, the decision of the Suzerain will be final; (*b*) the British Resident will be the medium of communication with native chiefs outside the Transvaal, and, subject to the approval of the High Commissioner, as representing the Suzerain, he will control the conclusion of treaties with them; and (*c*) he will arbitrate upon every dis-

pute between Transvaal residents and natives outside the Transvaal (as to acts committed beyond the boundaries of the Transvaal) which may be referred to him by the parties interested.

Sub-section 4. In regard to communications with foreign powers, the Transvaal Government will correspond with her Majesty's Government through the British Resident and the High Commissioner.

Article 19. The Government of the Transvaal State will strictly adhere to the boundaries defined in the First Article of this convention, and will do its utmost to prevent any of its inhabitants from making any encroachment upon lands beyond the said State. The Royal Commission will forthwith appoint a person who will beacon off the boundary-line between Ramatlabama and the point where such line first touches Griqua-land West boundary, midway between the Vaal and Hart rivers; the person so appointed will be instructed to make an arrangement between the owners of the farms Grootfontein and Valleifontein on the one hand, and the Barolong authorities on the other, by which a fair share of the water supply of the said farms shall be allowed to flow undisturbed to the said Barolongs.

Article 20. All grants or titles issued at any time by the Transvaal Government in respect of land outside the boundary of Transvaal State, as defined, Article 1, shall be considered invalid and of no effect, except in so far as any such grant or title relates to land that falls within the boundary of the Transvaal State, and all persons holding any such grant so considered invalid and of no effect will receive from the Government of the Transvaal State such compensation either in land or in money as the Volksraad shall determine. In all cases in which any native chiefs or other authorities outside the said boundaries have received any adequate consideration from the Government of the former South African Republic for land excluded from the Transvaal by the First Article of this Convention, or where permanent improvements have been made on the land, the British Resident will, subject to the approval of the High Commissioner, use his influence to recover from the native authorities fair compensation for the loss of the land thus excluded, and of the permanent improvement thereon.

Article 21. Forthwith, after the taking effect of this Convention, a Native Location Commission will be constituted, consisting of the President, or in his absence the

Vice-President of the State, or some one deputed by him, the Resident, or some one deputed by him, and a third person to be agreed upon by the President or the Vice-President, as the case may be, and the Resident, and such Commission will be a standing body for the performance of the duties herein-after mentioned.

Article 22. The Native Location Commission will reserve to the native tribes of the State such locations as they may be fairly and equitably entitled to, due regard being had to the actual occupation of such tribes. The Native Location Commission will clearly define the boundaries of such locations, and for that purpose will, in every instance, first of all ascertain the wishes of the parties interested in such land. In case land already granted in individual titles shall be required for the purpose of any location, the owners will receive such compensation either in other land or in money as the Volksraad shall determine. After the boundaries of any location have been fixed, no fresh grant of land within such location will be made, nor will the boundaries be altered without the consent of the Location Commission. No fresh grants of land will be made in the districts of Waterberg, Zoutpansberg, and Lydenberg until the locations in the said districts respectively shall have been defined by the said Commission.

Article 23. If not released before the taking effect of this Convention, Sikukuni, and those of his followers who have been imprisoned with him, will be forthwith released, and the boundaries of his location will be defined by the Native Location Commission in the manner indicated in the last preceding Article.

Article 24. The independence of the Swazies within the boundary-line of Swazi-land, as indicated in the First Article of this Convention, will be fully recognized.

Article 25. No other or higher duties will be imposed on the importation into the Transvaal State of any article the produce or manufacture of the dominions and possessions of her Majesty, from whatever place arriving, than are or may be payable on the like article the produce or manufacture of any other country, nor will any prohibition be maintained or imposed on the importation of any article the produce or manufacture of the dominions and possessions of her Majesty, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other country.

Article 26. All persons other than natives conforming

themselves to the laws of the Transvaal State (*a*) will have full liberty with their families to enter, travel, or reside in any part of the Transvaal State; (*b*) they will be entitled to hire or possess houses, manufactures, warehouses, shops, and premises; (*c*) they may carry on their commerce either in person or by any agent whom they may think to employ; (*d*) they will not be subject in respect of their persons or property, or in respect of their commerce or industry to any taxes, whether general or local, other than those which are or may be imposed upon Transvaal citizens.

Article 27. All inhabitants of the Transvaal shall have free access to the Courts for the protection and defence of their rights.

Article 28. All persons other than natives who established their domicile in the Transvaal between the 12th day of April, 1877, and the date when this Convention comes into effect, and who shall within twelve months after such last-mentioned date have their names registered by the British Resident, shall be exempt from all compulsory military service whatever. The Resident shall notify such registration to the Government of the Transvaal State.

Article 29. Provision shall hereafter be made by a separate instrument for the mutual extradition of criminals, and also for the surrender of deserters from her Majesty's forces.

Article 30. All debts contracted since the annexation will be payable in the same currency in which they may have been contracted; all uncanceled postage and other revenue stamps issued by the Government since the annexation will remain valid, and will be accepted at their present value by the future Government of the State; all licenses duly issued since the annexation will remain in force during the period for which they may have been issued.

Article 31. No grants of land which may have been made, and no transfer of mortgage which may have been passed since the annexation, will be invalidated by reason merely of their having been made or passed since that date. All transfers to the British Secretary for Native Affairs in trust for natives will remain in force, the Native Location Commission taking the place of such Secretary for Native Affairs.

Article 32. This Convention will be ratified by a newly-elected Volksraad within the period of three months after its execution, and in default of such ratifications this Convention shall be null and void.

Article 33. Forthwith, after the ratification of this Convention, as in the last preceding Article mentioned, all British troops in Transvaal territory will leave the same, and the mutual delivery of munitions of war will be carried out.

[Here follow signatures of Royal Commissioners; then the following precedes signatures of triumvirate.]

We, the undersigned, Stephanus Johannes Paulus Kruger, Martinus Wessel Pretorius, and Petrus Jacobus Joubert, as representatives of the Transvaal Burghers, do hereby agree to all the above conditions, reservations, and limitations under which self-government has been restored to the inhabitants of the Transvaal territory, subject to the suzerainty of her Majesty, her heirs and successors, and we agree to accept the Government of the said territory, with all rights and obligations thereto appertaining, on the 8th day of August; and we promise and undertake that this Convention shall be ratified by a newly-elected Volksraad of the Transvaal State within three months from this date.

(From a published copy of the original document.)

235. The Convention of London

The Convention of London must be read in conjunction with that of Pretoria, as upon the variance of the two rests much of the ground of dispute between the two countries. The omission of the clauses as to suzerainty was claimed by the Boers as extinguishing that claim, while England held that the London treaty was in that respect merely supplementary, and that the Convention of Pretoria was still in force, except where explicitly changed by that of London.

A CONVENTION BETWEEN HER MAJESTY THE QUEEN OF THE
UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND
THE SOUTH AFRICAN REPUBLIC

Preamble.

Article 1. The territory of the South African Republic will embrace the land lying between the following boundaries, to wit:

[Here follows a description of the line of boundary.]

Article 2. The Government of the South African Republic will strictly adhere to the boundaries defined in the first Article of this Convention, and will do its utmost to prevent

any of its inhabitants from making any encroachments upon lands beyond the said boundaries. The Government of the South African Republic will appoint Commissioners upon the eastern and western borders whose duty it will be strictly to guard against irregularities and all trespassing over the boundaries. Her Majesty's Government will, if necessary, appoint Commissioners in the native territories outside the eastern and western borders of the South African Republic to maintain order and prevent encroachments.

Her Majesty's Government and the Government of the South African Republic will each appoint a person to proceed together to beacon off the amended south-west boundary as described in Article 1 of this Convention; and the President of the Orange Free State shall be requested to appoint a referee to whom the said persons shall refer any question on which they may disagree respecting the interpretation of the said Article, and the decision of such referee thereon shall be final. The arrangement already made, under the terms of Article 19 of the Convention of Pretoria of the 3rd of August, 1881, between the owners of the farms Grootfontein and Valleifontein on the one hand, and the Barolong authorities on the other, by which a fair share of the water supply of the said farms shall be allowed to flow undisturbed to the said Barolongs, shall continue in force.

Article 3. If a British officer is appointed to reside at Pretoria or elsewhere within the South African Republic to discharge functions analogous to those of a Consular officer he will receive the protection and assistance of the Republic.

Article 4. The South African Republic will conclude no treaty or engagement with any State or nation other than the Orange Free State, nor with any native tribe to the eastward or westward of the Republic, until the same has been approved by her Majesty the Queen. Such approval shall be considered to have been granted if her Majesty's Government shall not, within six months after receiving a copy of such treaty (which shall be delivered to them immediately upon its completion), have notified that the conclusion of such treaty is in conflict with the interests of Great Britain or any of her Majesty's possessions in South Africa.

Article 5. The South African Republic will be liable for any balance which may still remain due of the debts for which it was liable at the date of annexation, to wit, the Cape Commercial Bank Loan, the Railway Loan, and the Orphan Chamber Debt, which debts will be a first charge

upon the revenues of the Republic. The South African Republic will moreover be liable to her Majesty's Government for 250,000 *l.*, which will be a second charge upon the revenues of the Republic.

Article 6. The debt due as aforesaid by the South African Republic to her Majesty's Government will bear interest at the rate of three and a half per cent. from the date of the ratification of this Convention, and shall be repayable by a payment for interest and Sinking Fund of six pounds and ninepence per 100 *l.* per annum, which will extinguish the debt in twenty-five years. The said payment of six pounds and ninepence per 100 *l.* shall be payable half-yearly, in British currency, at the close of each half-year from the date of such ratification: Provided always that the South African Republic shall be at liberty at the close of any half-year to pay off the whole or any portion of the outstanding debt.

Interest at the rate of three and a half per cent. on the debt as standing on the Convention of Pretoria shall as heretofore be paid to the date of the ratification of this Convention.

Article 7. All persons who held property in the Transvaal on the 8th day of August, 1881, and still hold the same, will continue to enjoy the rights of property which they have enjoyed since the 12th of April, 1877. No person who has remained loyal to her Majesty during the late hostilities shall suffer any molestation by reason of his loyalty; or be liable to any criminal prosecution or civil action for any part taken in connection with such hostilities; and all such persons will have full liberty to reside in the country, with enjoyment of all civil rights, and protection for their persons and property.

Article 8. The South African Republic renews the declaration made in the Sand River Convention, and in the Convention of Pretoria, that no slavery or apprenticeship partaking of slavery will be tolerated by the Government of the said Republic.

Article 9. There will continue to be complete freedom of religion and protection from molestation for all denominations, provided the same be not inconsistent with morality and good order; and no disability shall attach to any person in regard to rights of property by reason of the religious opinion which he holds.

Article 10. The British officer appointed to reside in the South African Republic will receive every assistance from the Government of the said Republic in making due pro-

vision for the proper care and preservation of the graves of such of her Majesty's forces as have died in the Transvaal; and if need be, for the appropriation of land for the purpose.

Article 11. All grants or titles issued at any time by the Transvaal Government in respect of land outside the boundary of the South African Republic, as defined in Article 1, shall be considered invalid and of no effect, except in so far as any such grant or title relates to land that falls within the boundary of the South African Republic; and all persons holding any such grant so considered invalid and of no effect will receive from the Government of the South African Republic such compensation, either in land or in money, as the Volksraad shall determine. In all cases in which any native chiefs or other authorities outside the said boundaries have received any adequate consideration from the Government of the South African Republic for land excluded from the Transvaal by the first article of this Convention or where permanent improvements have been made on the land, the High Commissioner will recover from the native authorities fair compensation for the loss of the land thus excluded, or of the permanent improvements thereon.

Article 12. The independence of the Swazis, within the boundary line of Swazi-land, as indicated in the first article of this Convention, will be fully recognized.

Article 13. Except in pursuance of any treaty or engagement made as provided in Article 4 of this Convention, no other or higher duties shall be imposed on the importation into the South African Republic of any article coming from any part of her Majesty's dominions than are or may be imposed on the like article coming from any other place or country; nor will any prohibition be maintained or imposed on the importation into the South African Republic of any article coming from any part of her Majesty's dominions which shall not equally extend to the like article coming from any other place or country. And in like manner the same treatment shall be given to any article coming to Great Britain from the South African Republic as to the like article coming from any other place or country.

These provisions do not preclude the consideration of special arrangements as to import duties and commercial relations between the South African Republic and any of her Majesty's colonies or possessions.

Article 14. All persons, other than natives, conforming themselves to the laws of the South African Republic (a) will

have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic; (b) they will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises; (c) they may carry on their commerce either in person or by any agents whom they think fit to employ; (d) they will not be subject, in respect to their persons or property, or in respect to their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic.

Article 15. All persons, other than natives, who established their domicile in the Transvaal between the 12th day of April, 1877, and the 8th of August, 1881, and who within twelve months after such last-mentioned date have had their names registered by the British Resident, shall be exempt from all compulsory military service whatever.

Article 16. Provision shall hereafter be made by a separate instrument for the mutual extradition of criminals, and also for the surrender of deserters from her Majesty's forces.

Article 17. All debts contracted between the 12th of April, 1877, and the 8th of August, 1881, will be payable in the same currency in which they may have been contracted.

Article 18. No grants of land which may have been made, and no transfers or mortgages which may have been passed between the 12th of April, 1877, and the 8th of August, 1881, will be invalidated by reason merely of their having been made or passed between such dates.

All transfers to the British Secretary for Native Affairs in trust for natives will remain in force, an officer of the South African Republic taking the place of such Secretary for Native Affairs.

Article 19. The Government of the South African Republic will engage faithfully to fulfil the assurance given, in accordance with the laws of the South African Republic, to the natives at the Pretoria Pitso by the Royal Commission in the presence of the triumvirate and with their entire assent; (1) as to the freedom of the natives to buy or otherwise acquire land under certain conditions; (2) as to the appointment of a commission to mark out native locations; (3) as to the access of the natives to the courts of law, and (4) as to their being allowed to move freely within the country, or to leave it for any legal purpose, under a pass system.

Article 20. This Convention will be ratified by a Volksraad of the South African Republic within the period of six

months after its execution, and in default of such ratification this Convention shall be null and void.

Signed in duplicate in London this 27th day of February, 1884.

(From a published copy of the original document.)

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